

**2011**

**Missouri**

# **Legal Malpractice Insurance Report**

**Statistics Section  
July 2012**



**DIFP**

**Jeremiah W. (Jay) Nixon**  
Governor

Department of Insurance,  
Financial Institutions &  
Professional Registration

**John M. Huff**  
Director

# **MISSOURI LEGAL MALPRACTICE INSURANCE REPORT 2011**

**Department of Insurance, Financial Institutions & Professional Registration  
Statistics Section  
July 2012**

# Other Publications

## Available from the Missouri Department of Insurance, Financial Institutions & Professional Registration

The Department of Insurance, Financial Institutions & Professional Registration publishes the following reports. These reports are available by sending a written request along with \$35 to:

Department of Insurance, Financial Institutions & Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102-0690

1. **Missouri Complaint Index Report**  
summary information: <http://insurance.mo.gov/consumers/complaints/compindx.php>
2. **Missouri Department of Insurance Annual Report**  
summary information: <http://difp.mo.gov/about.php>
3. **Missouri Life, Accident & Health Supplement Data**  
summary information: <http://insurance.mo.gov/reports/suppdata/>
4. **Missouri Market Share Data**  
summary information: <http://insurance.mo.gov/reports/mktshr/>
5. **Missouri Medical Malpractice (Closed Claim) Report**  
summary information: <http://insurance.mo.gov/reports/medmal/index.php>
6. **Missouri Product Liability (Closed Claim) Report**  
summary information: <http://insurance.mo.gov/reports/prodliab/>
7. **Missouri Property & Casualty Supplement Report**  
summary information: <http://insurance.mo.gov/reports/suppdata/>
8. **Missouri Real Estate Malpractice (Closed Claim) Report**  
summary information: <http://insurance.mo.gov/reports/remal/>
9. **Mortgage Guaranty Report**  
summary information: <http://insurance.mo.gov/reports/mortguar/>
10. **Missouri Health Maintenance Organization Report**  
summary information: <http://insurance.mo.gov/reports/hmo/>

**Databases:** For more information: <http://insurance.mo.gov/reports/>

1. Medicare Supplement Experience Data
2. Commercial Liability Experience Data
3. Missouri **Zip Code Insurance Data** for:
  - Homeowners/Dwelling Fire,
  - Farmowners (dwelling only),
  - Mobile Home,
  - Earthquake, and
  - Private Passenger Automobile

Some data is available to the public for a fee by special request only. For additional information, contact the **Statistics Section at (573) 751-4126**.

## DEFINITION OF TERMS

**Indemnity Paid:** The sum of all payments made during the year for the benefit of insurance claimants, before reinsurance has been ceded and/or assumed. These payments include amounts paid in the current year for claims arising from coverage in prior years and exclude amounts which will be paid in future years for claims arising from the current year. Hence, this item is not a measure of the actual cost of current coverages, but only of current cash flows.

**Loss Adjustment Expenses:** The cost involved in an insurance company's adjustment of losses under a policy.

**Direct Premiums Written:** The dollar amount charged when a policyholder contracts for insurance coverage before reinsurance has been ceded and/or assumed.

**Direct Premiums Earned:** The part of premium attributable to the coverage already provided in a given period before reinsurance has been ceded and/or assumed.

**Direct Losses Incurred:** The sum of direct losses paid plus an estimate at the close of the year of the amounts to be paid in the future for all claims arising from the current and all prior years, minus the corresponding estimate made at the close of business for the preceding year. Incurred losses reported include estimated amounts unpaid for incurred-but-not-reported (IBNR) claims.

**Loss Ratio:** The dollar amount of direct losses incurred divided by the dollar amount of premiums earned for the particular line of business being analyzed, expressed as a percentage. This is an accounting representation of the portion of each premium dollar which is needed to honor a company's promise to pay claims.

## **LEGAL MALPRACTICE INSURANCE REPORT EXECUTIVE SUMMARY**

This report summarizes the legal malpractice insurance experience in Missouri from 2002 to 2011.

The charts, graphs and tables in this report are limited to closed claim information and were constructed from data collected by the Department of Insurance, Financial Institutions & Professional Registration as required by Section 383.077 RSMo. The premium and loss data, obtained from the Missouri Page 19 Supplement to the companies' annual statements are presented in the final section.

In 2011, the loss ratio for legal malpractice insurance in Missouri was 38 percent. For the 10-year period of claims closed<sup>1</sup>, 645 (27 percent) were closed with payment. Claims closed in 2011 totaled 253, a 7.7 percent increase from the previous year. The average payment was \$99,059.

The cost to an insurer for settling legal malpractice cases (called loss adjustment expense, consisting of legal fees, claim adjustment costs and related items) has fluctuated over the past 10 years. In 2011, the average loss adjustment expense for all claims closed with payment was \$59,096 compared to \$69,950 in 2010.

Indemnity amounts are categorized by claim characteristics, including:

- Area of law in which the insured was retained by the claimant.
- Major activity in which the lawyer was engaged at the time the alleged error or omission occurred.
- Alleged error or omission that was the most significant reason for making the claim.
- The legal disposition of the claim at the closing date.
- The number of years the insured had been in practice at the time of the alleged error or omission.
- The relationship of the insured to the claimant.

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<sup>1</sup> Claims closed may have resulted from incidents in any previous period.

By area of law, the largest share of claims closed in 2011 (65 of 253) was initiated by plaintiffs in *personal injury and property damage cases*. The largest proportion of all claims closed in 2011 under the major activity code occurred during *categories that were not specified*. Of all claims paid during 2011, 59 percent were settled *before trial or hearing* on the alleged malpractice.

Ninety-six percent of losses in 2011 occurred among attorneys with *more than 10 years of practice*. The insured's relationship to the claimant is partitioned into four subclasses: *free legal service, non-client, member of pre-paid legal plan and client other than free service or prepaid legal plan*. Seventy-seven percent of 2011 claims occurred in the category of *client other than free legal service or member of pre-paid legal plan*.

Only 10 companies reported writing legal malpractice insurance in Missouri for 2011. Of these, the Bar Plan Mutual Insurance Company was by far the largest, with over 68 percent of the legal malpractice insurance market in this state.

This report was compiled using information submitted by insurance companies. As a result, the accuracy of this report is dependent upon the correctness of each company's data. Copies of this report will be made available in Braille, large print or on audio cassette upon request. Any questions regarding this report should be addressed to the Statistics Section, Department of Insurance, Financial Institutions & Professional Registration, P.O. Box 690, Jefferson City, MO 65102-0690.

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**TEN YEAR  
SUMMARY  
(2002-2011)**



# LEGAL MALPRACTICE EXPERIENCE

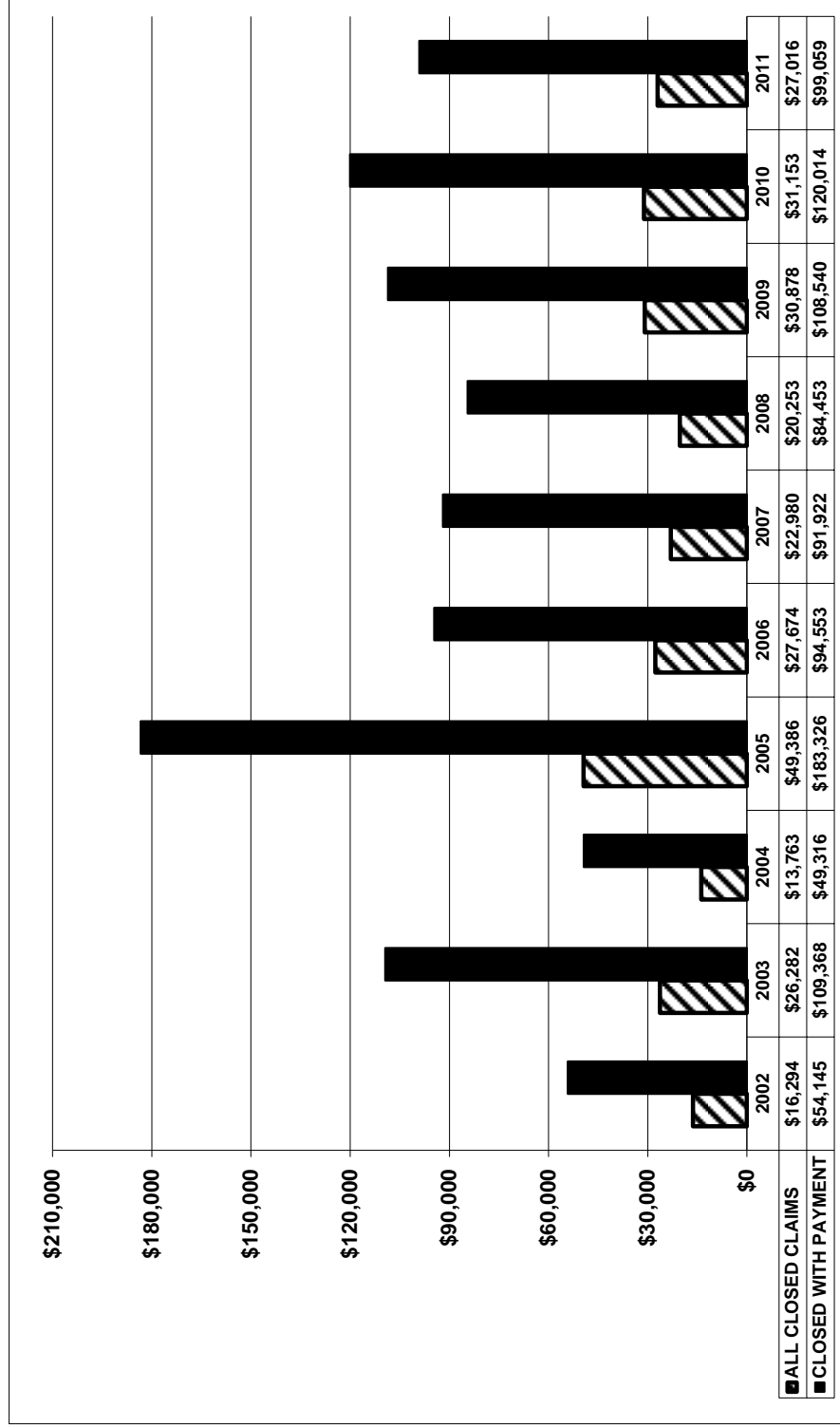
## TEN YEAR SUMMARY

### (2002-2011)

CLOSED CLAIMS	NUMBER OF CLAIMS	PERCENT OF CLAIMS	TOTAL INDEMNITY PAID	AVERAGE INDEMNITY PAID	TOTAL LOSS EXPENSES PAID	AVERAGE LOSS EXPENSE PAID
All Closed Claims	2,400	100.0%	\$63,977,309	\$26,657	\$43,046,281	\$17,936
Closed with Payment	645	26.9%	\$63,977,309	\$99,190	\$23,351,619	\$36,204
Closed without Payment	1,755	73.1%	\$0	\$0	\$19,694,662	\$11,222
Claims Settled Through Court Proceedings	216	9.0%	\$8,878,733	\$41,105	\$13,661,007	\$63,245
Court Proceedings Resulting in Payment	34	1.4%	\$8,878,733	\$261,139	\$4,579,781	\$134,699

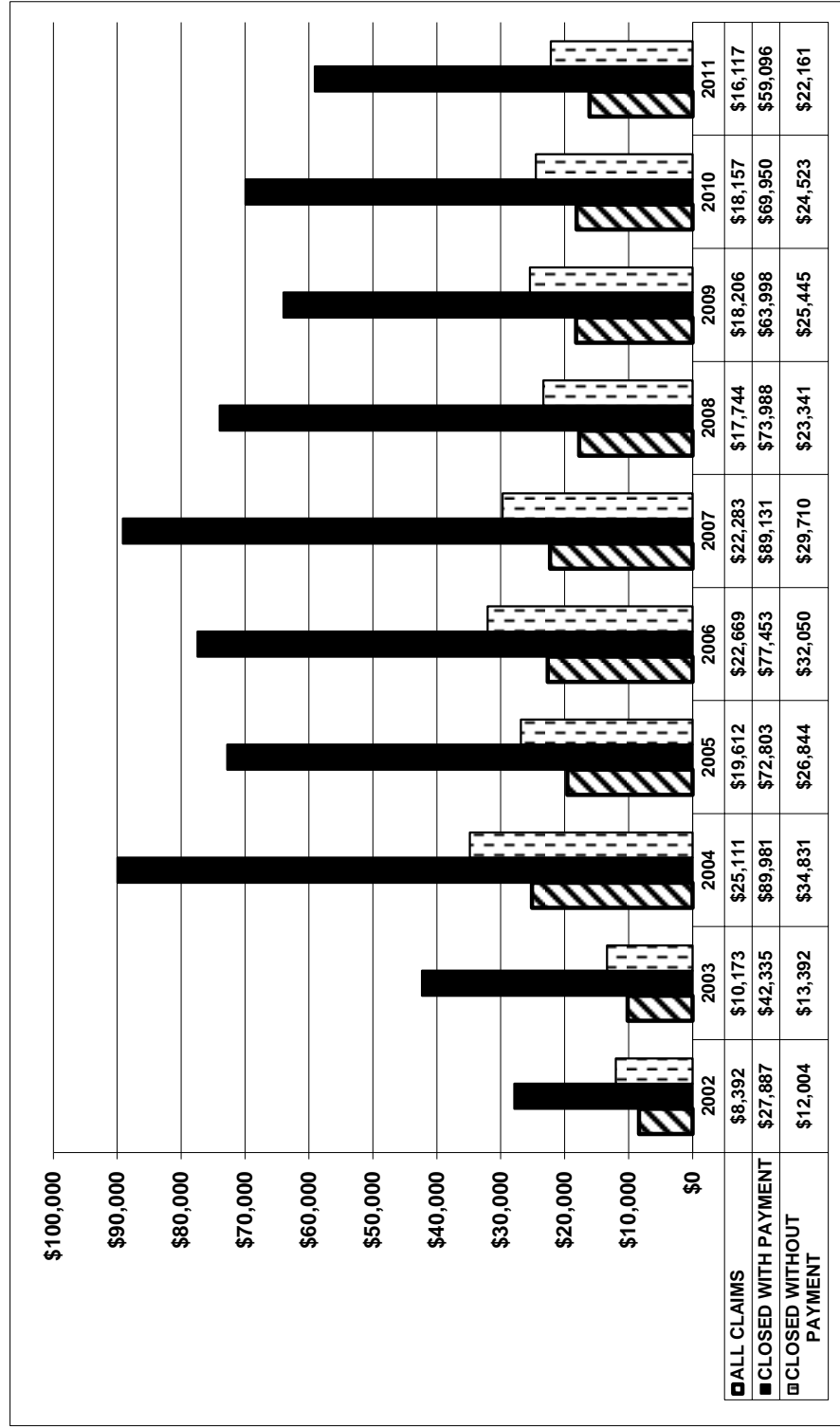
# MISSOURI LEGAL MALPRACTICE INSURANCE

## AVERAGE PAID CLAIM



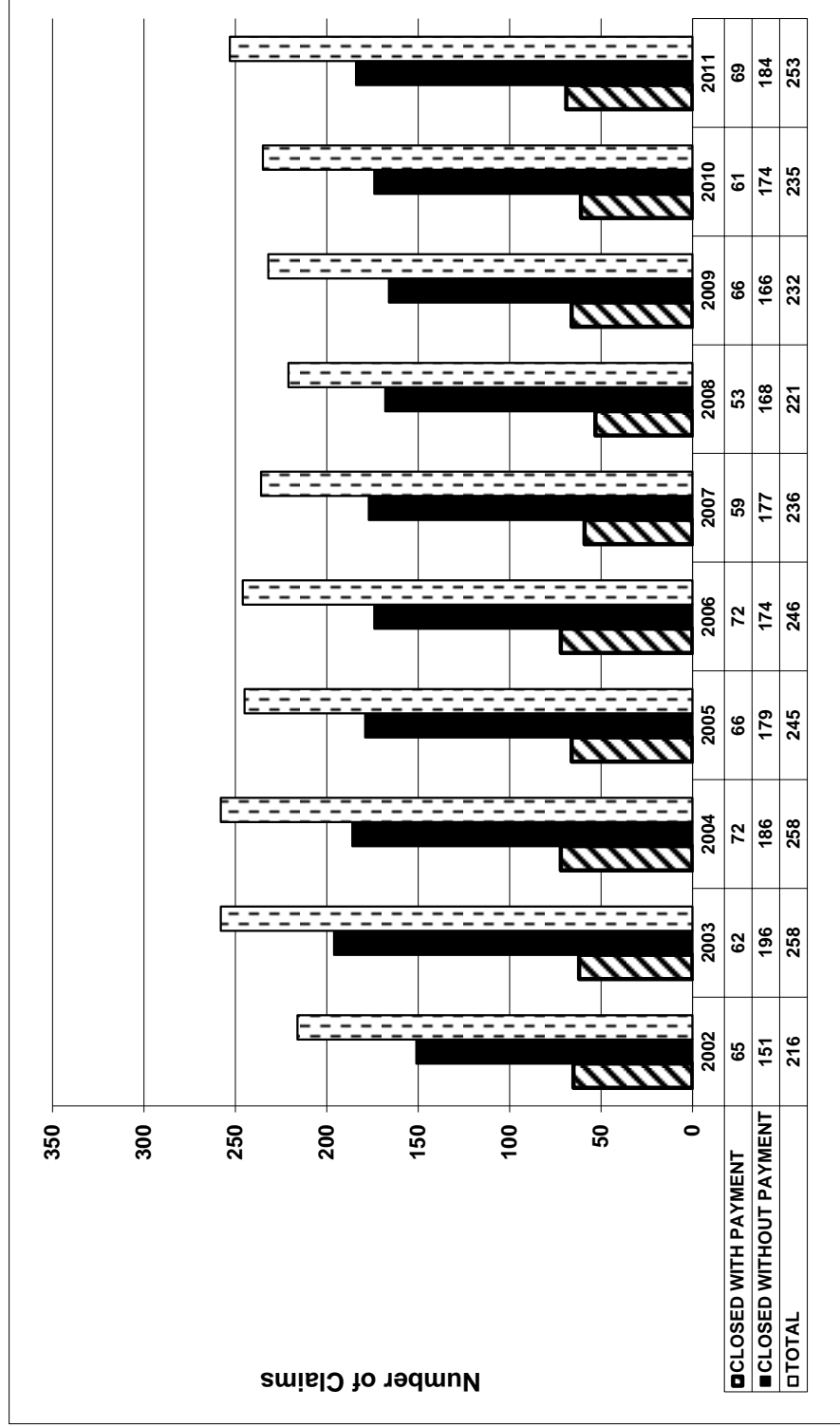
# MISSOURI LEGAL MALPRACTICE INSURANCE

## AVERAGE PAID LOSS ADJUSTMENT EXPENSE



# MISSOURI LEGAL MALPRACTICE INSURANCE

## CLAIM COUNT 2002-2011



**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
AREA OF LAW**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2002-2011

AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BI/PD - PLAINTIFF	632	234	36.28%	\$97,567	\$22,830,794	35.69%	\$19,220
COLLECTION & BANKRUPTCY	308	62	9.61%	\$42,429	\$2,630,618	4.11%	\$10,589
FAMILY LAW	284	55	8.53%	\$47,727	\$2,624,969	4.10%	\$10,074
ESTATE, TRUST & PROBATE	272	78	12.09%	\$77,592	\$6,052,188	9.46%	\$17,434
REAL ESTATE	209	47	7.29%	\$177,957	\$8,363,959	13.07%	\$13,533
BUSINESS TRANSACTION/COMMERCIAL LAW	130	37	5.74%	\$167,065	\$6,181,389	9.66%	\$31,254
WORKERS COMPENSATION	97	36	5.58%	\$39,398	\$1,418,330	2.22%	\$13,252
BI/PD - DEFENDANT	91	18	2.79%	\$355,638	\$6,401,482	10.01%	\$51,774
CRIMINAL	91	10	1.55%	\$55,396	\$553,963	0.87%	\$10,763
CORPORATE & BUSINESS ORGANIZATION	75	17	2.64%	\$94,626	\$1,608,639	2.51%	\$18,256
CIVIL RIGHTS & COMMISSION	51	11	1.71%	\$37,390	\$411,294	0.64%	\$11,480
LABOR LAW	37	9	1.40%	\$125,504	\$1,129,535	1.77%	\$20,104
CONSUMER CLAIMS	23	5	0.78%	\$59,400	\$296,999	0.46%	\$19,110
LOCAL GOVERNMENT	21	2	0.31%	\$13,959	\$27,918	0.04%	\$11,441
TAXATION	18	4	0.62%	\$62,375	\$249,500	0.39%	\$16,777
CONSTRUCTION (BUILDING CONTRACTS)	12	5	0.78%	\$214,423	\$1,072,113	1.68%	\$61,808
PATENTS, TRADEMARKS, COPYRIGHTS	12	5	0.78%	\$235,000	\$1,175,000	1.84%	\$106,167
SECURITIES (S.E.C.)	11	3	0.47%	\$176,796	\$530,389	0.83%	\$23,947
GOVERNMENT CONTRACTS & CLAIMS	10	1	0.16%	\$30,000	\$30,000	0.05%	\$1,530
IMMIGRATION & NATURALIZATION	10	4	0.62%	\$94,008	\$376,030	0.59%	\$18,299
ADMIRALTY	3	2	0.31%	\$6,100	\$12,200	0.02%	\$1,757
ENVIRONMENT	3	0	0.00%	N/A	\$0	0.00%	\$1,446
TOTAL	2,400	645	100.00%	\$99,190	\$63,977,309	100.00%	\$17,936

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011

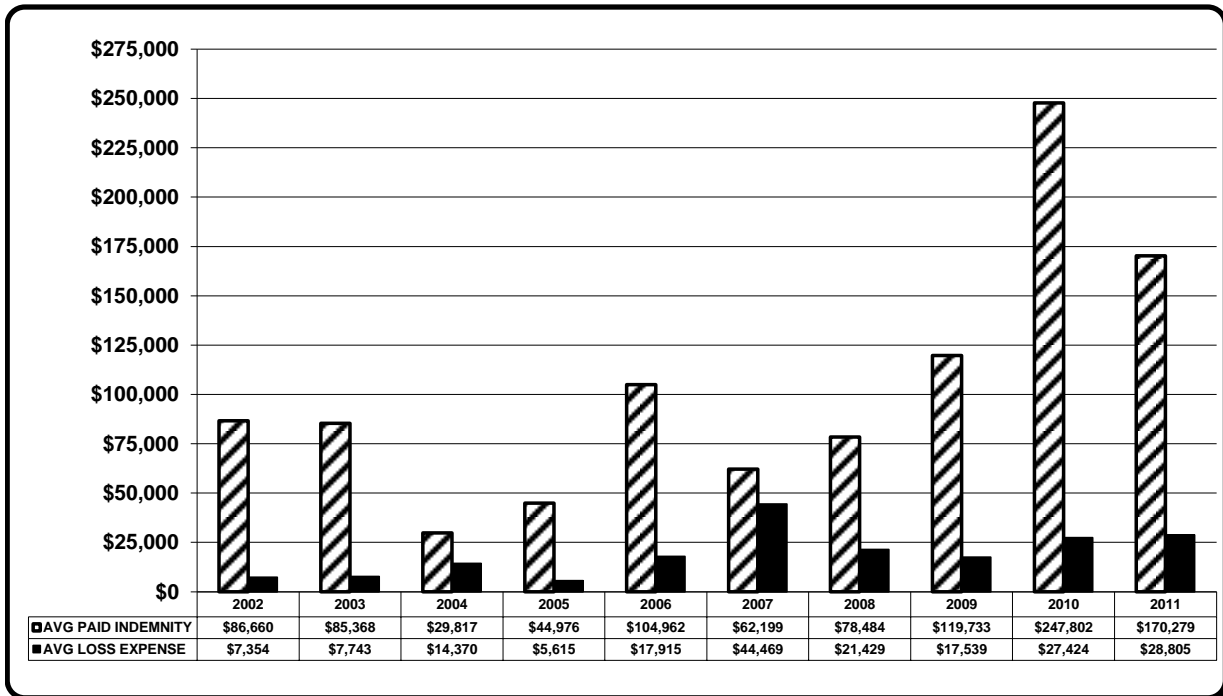
AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BI/PD - PLAINTIFF	65	21	30.43%	\$170,279	\$3,575,850	52.32%	\$28,805
COLLECTION & BANKRUPTCY	40	8	11.59%	\$45,523	\$364,185	5.33%	\$8,833
REAL ESTATE	32	13	18.84%	\$55,315	\$719,096	10.52%	\$18,543
ESTATE, TRUST & PROBATE	27	8	11.59%	\$93,929	\$751,435	10.99%	\$11,381
FAMILY LAW	27	5	7.25%	\$45,600	\$228,000	3.34%	\$2,047
CORPORATE & BUSINESS ORGANIZATION	14	4	5.80%	\$136,875	\$547,500	8.01%	\$17,063
BUSINESS TRANSACTION/COMMERCIAL LAW	10	2	2.90%	\$38,500	\$77,000	1.13%	\$41,313
CRIMINAL	7	0	0.00%	N/A	\$0	0.00%	\$5,737
CONSUMER CLAIMS	6	1	1.45%	\$9,500	\$9,500	0.14%	\$6,771
WORKERS COMPENSATION	6	2	2.90%	\$19,250	\$38,500	0.56%	\$2,600
BI/PD - DEFENDANT	4	1	1.45%	\$351,606	\$351,606	5.14%	\$2,108
CIVIL RIGHTS & COMMISSION	4	1	1.45%	\$30,000	\$30,000	0.44%	\$5,115
TAXATION	3	1	1.45%	\$112,000	\$112,000	1.64%	\$31,028
GOVERNMENT CONTRACTS & CLAIMS	2	1	1.45%	\$30,000	\$30,000	0.44%	\$5,633
LABOR LAW	2	0	0.00%	N/A	\$0	0.00%	\$0
LOCAL GOVERNMENT	2	1	1.45%	\$418	\$418	0.01%	\$5,000
SECURITIES (S.E.C.)	2	0	0.00%	N/A	\$0	0.00%	\$2,221
TOTAL	253	69	100.00%	\$99,059	\$6,835,090	100.00%	\$16,117

**TRENDS  
OF THE TOP TEN  
AREAS OF LAW  
OF 2011**

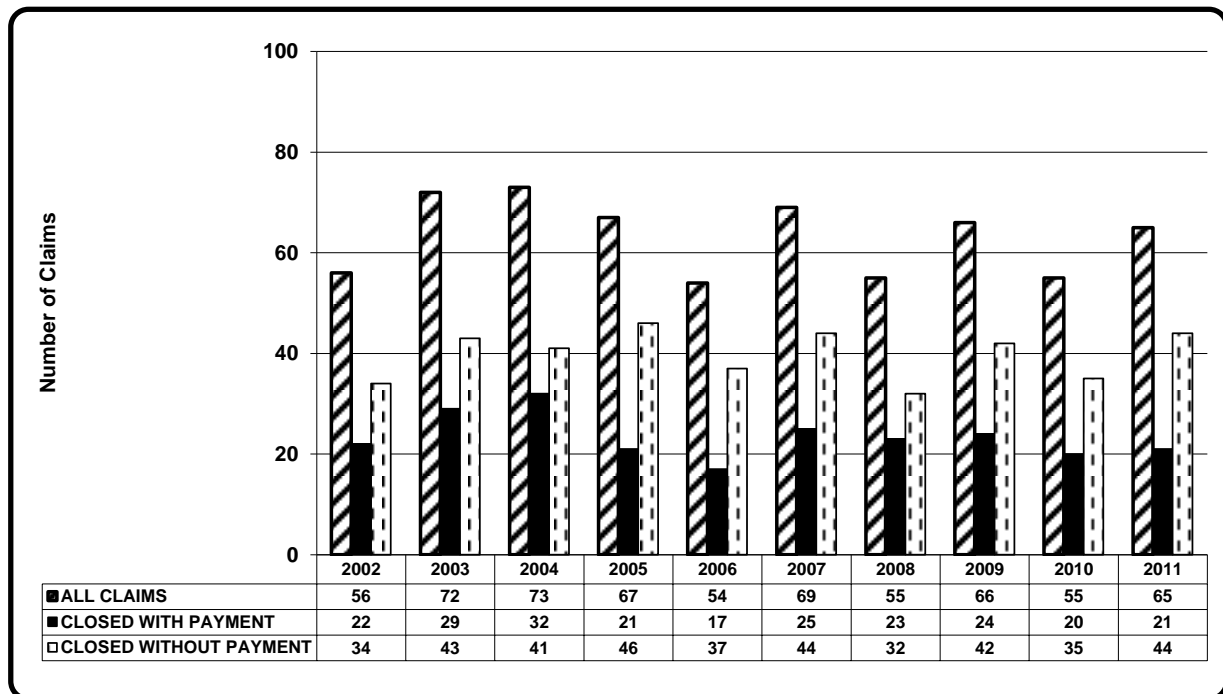


## PERSONAL INJURY/PROPERTY DAMAGE - PLAINTIFF

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

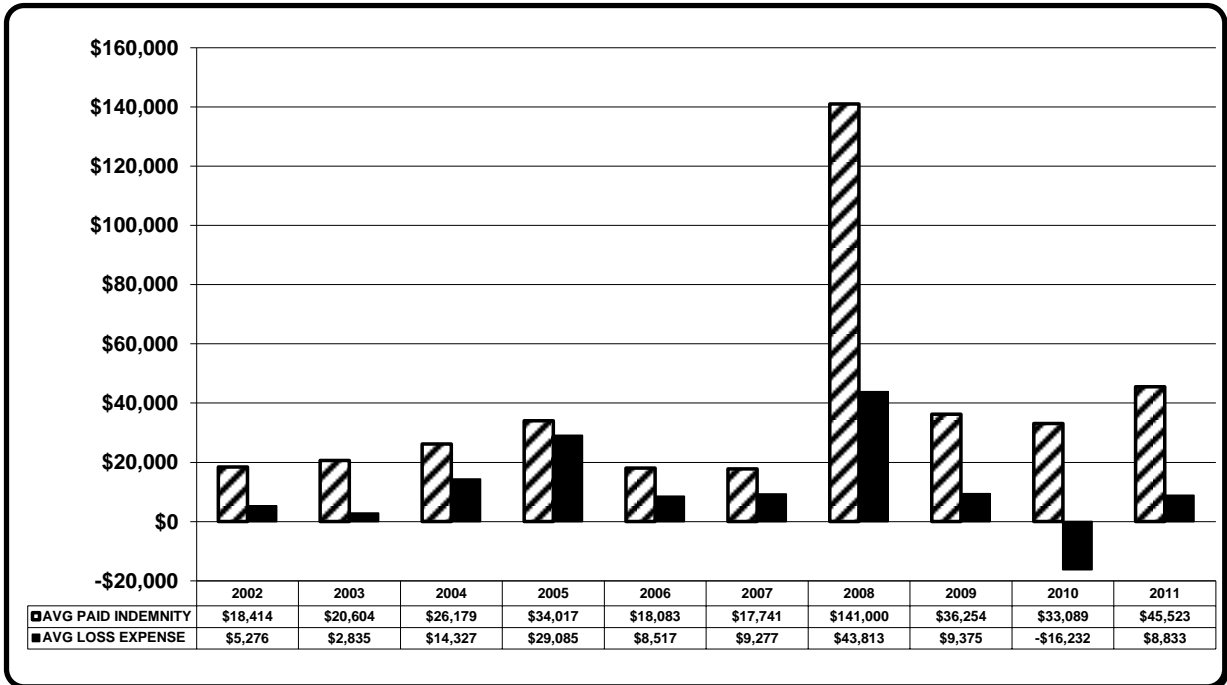


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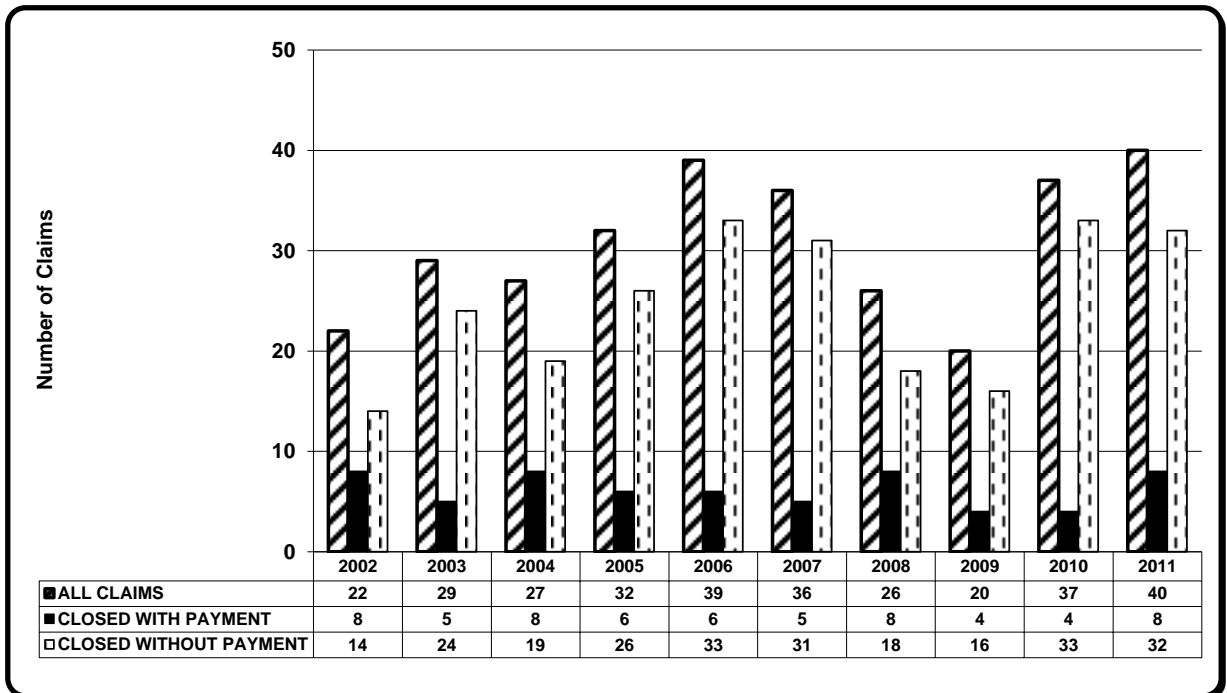


## COLLECTION & BANKRUPTCY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

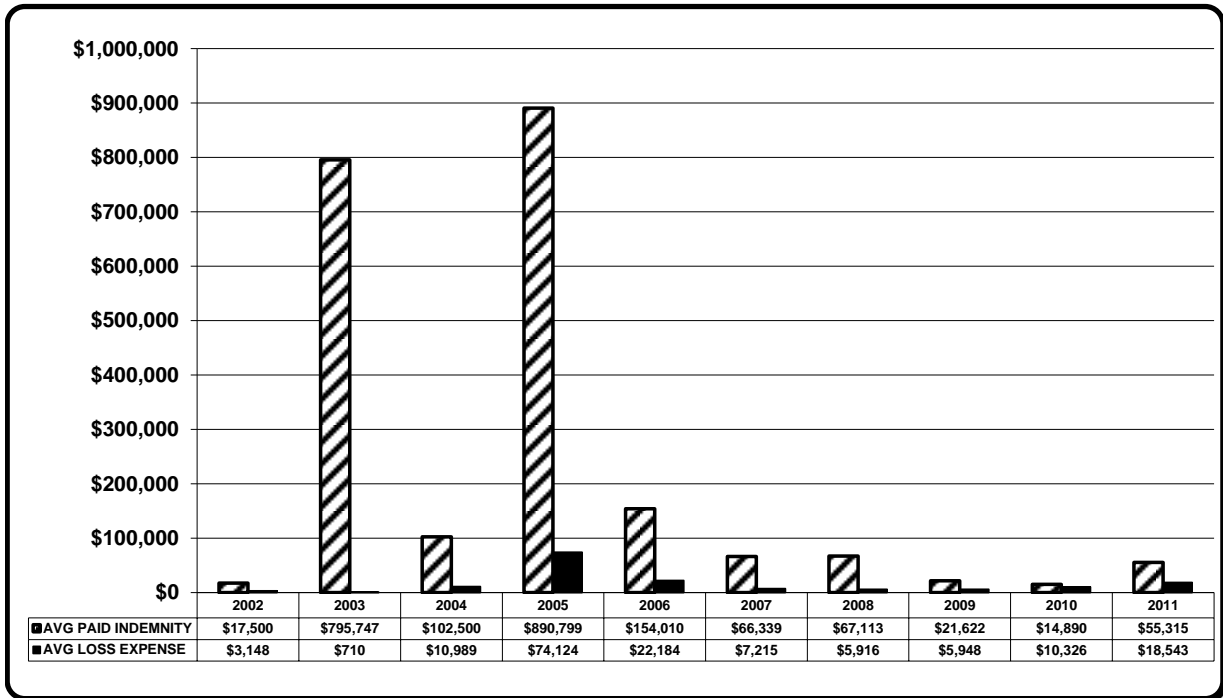


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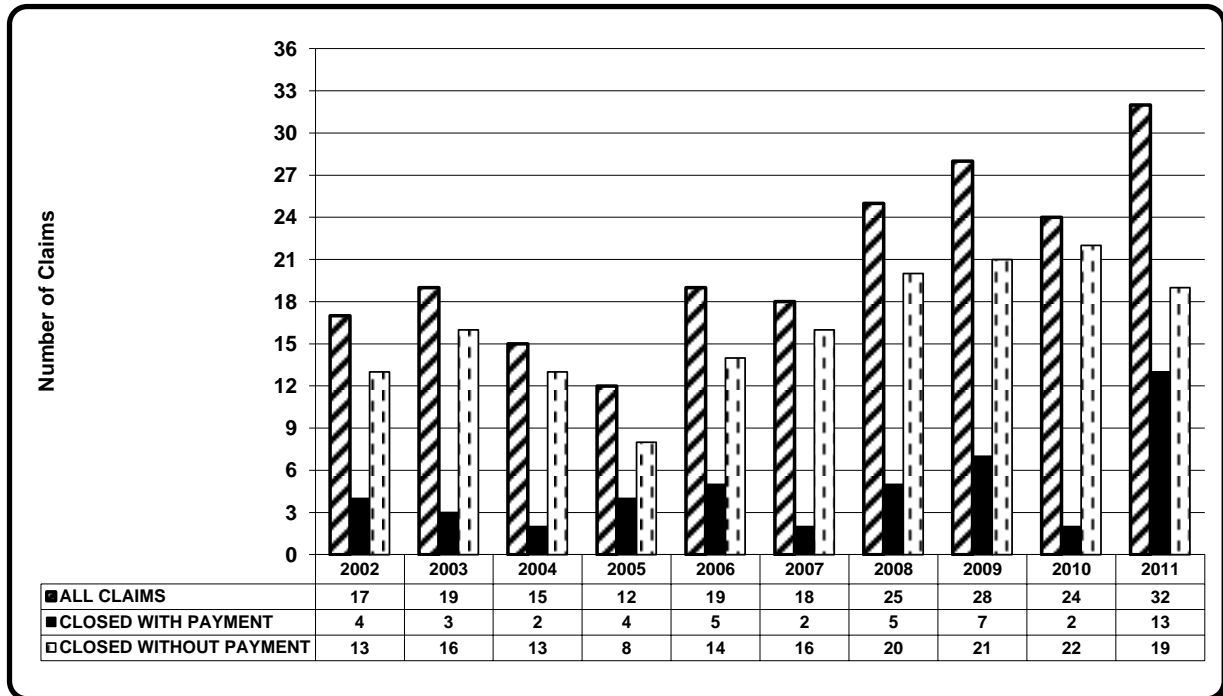


## REAL ESTATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

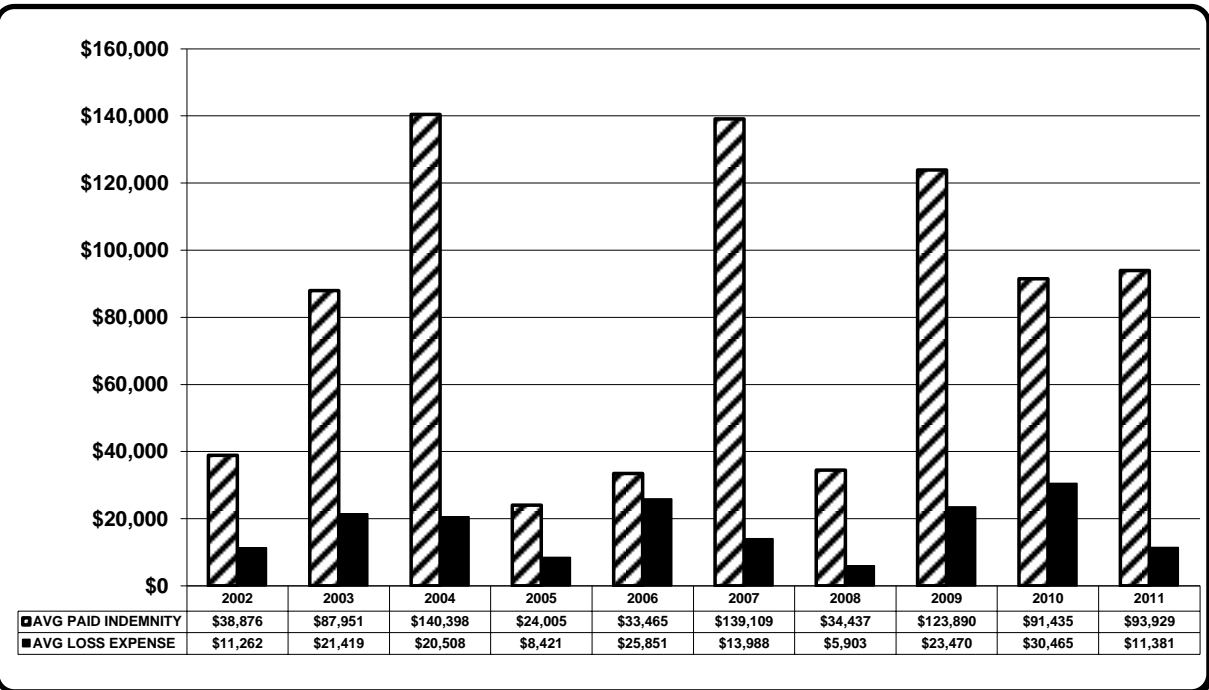


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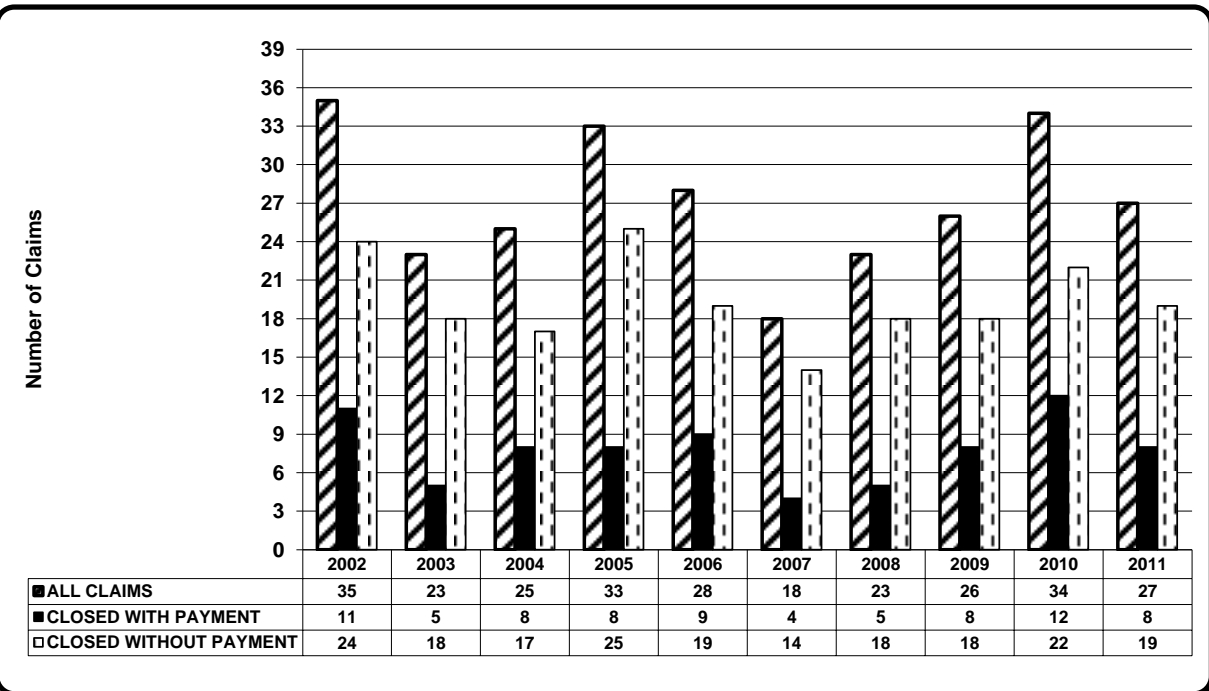


## ESTATE, TRUST & PROBATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



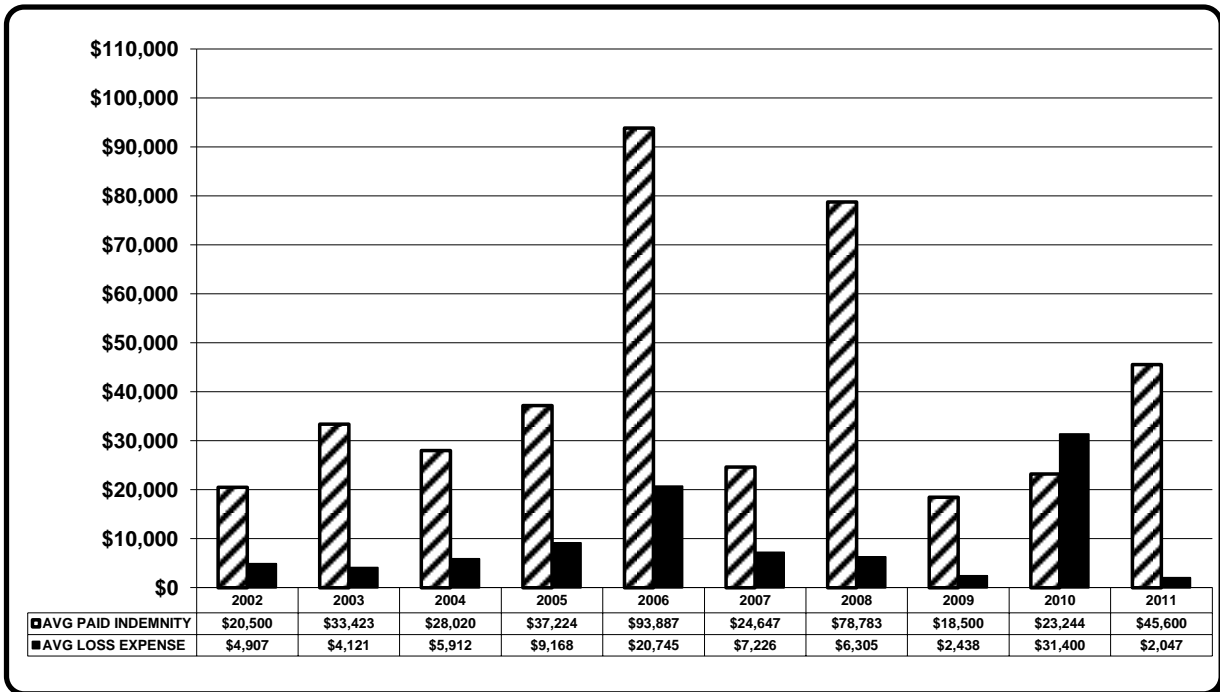
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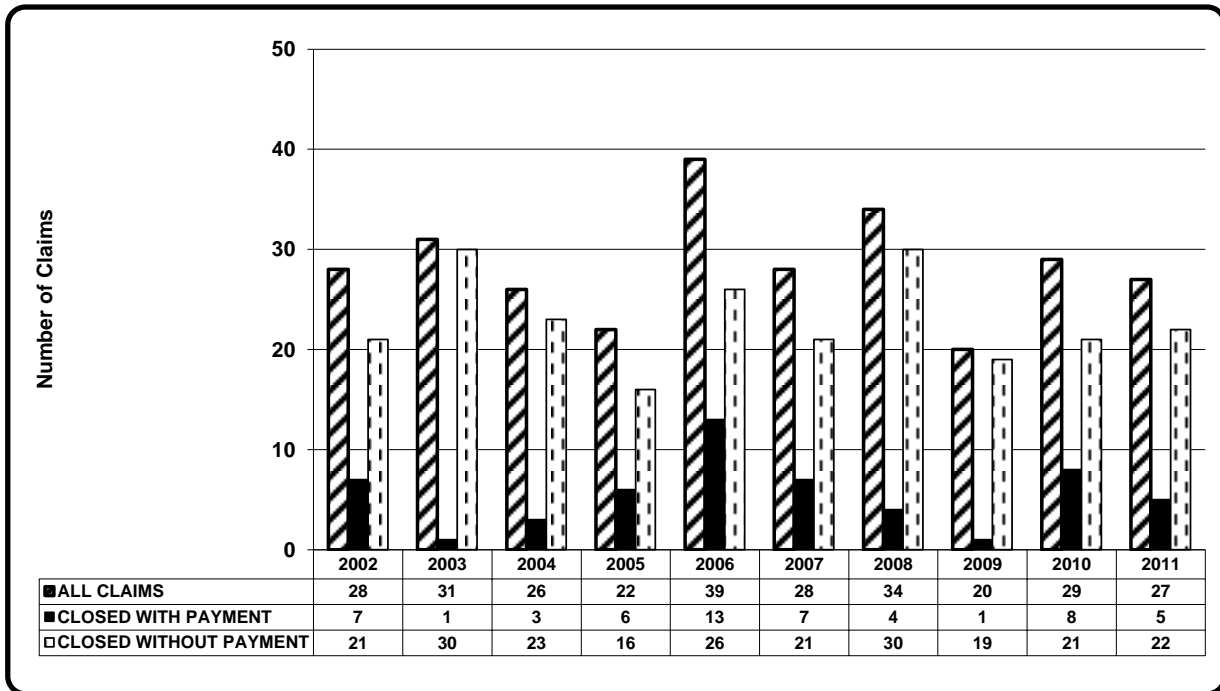


## FAMILY LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

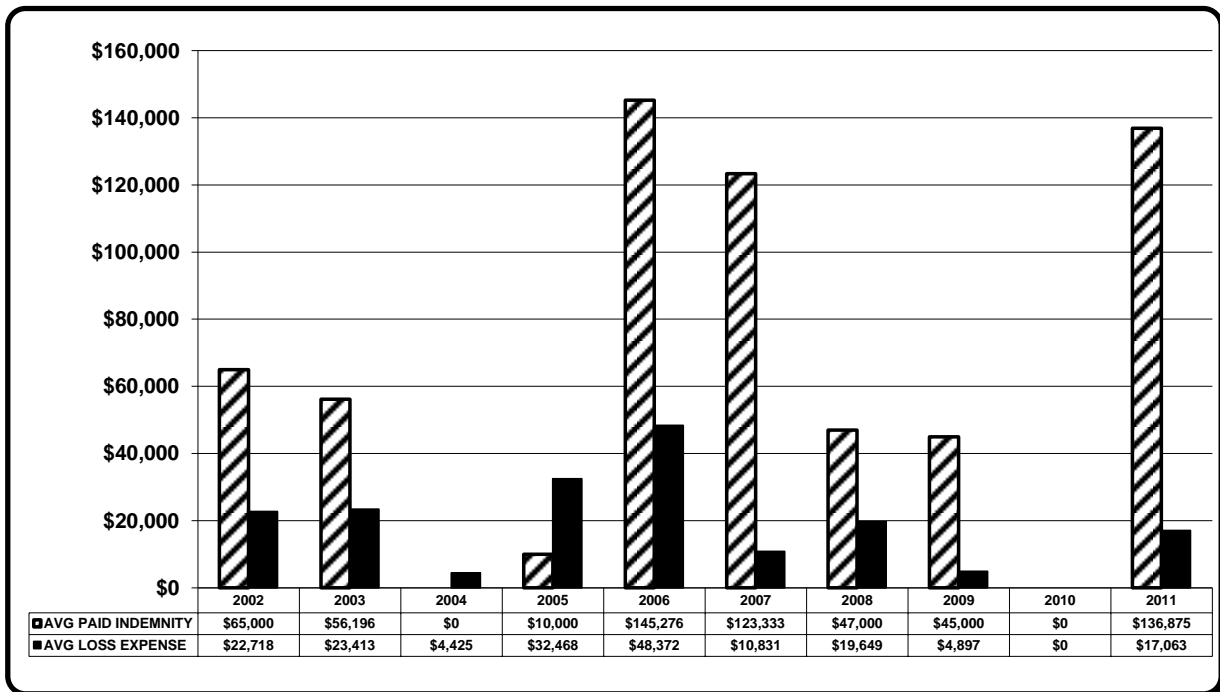


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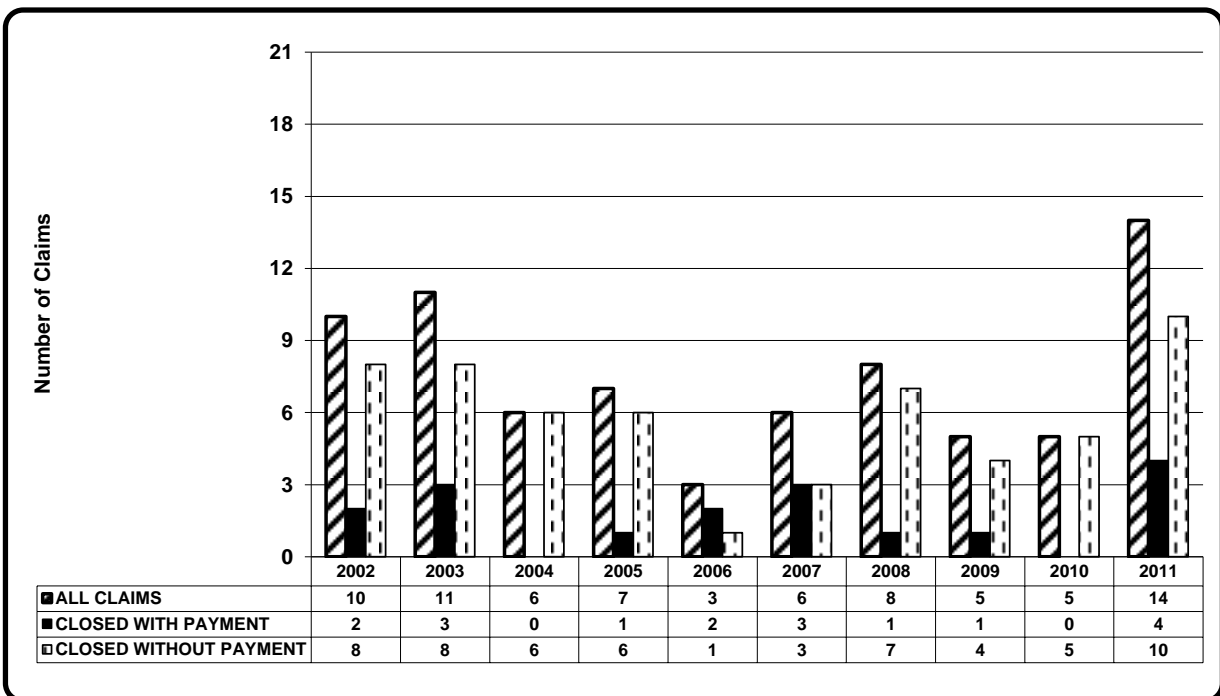


## CORPORATE & BUSINESS ORGANIZATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

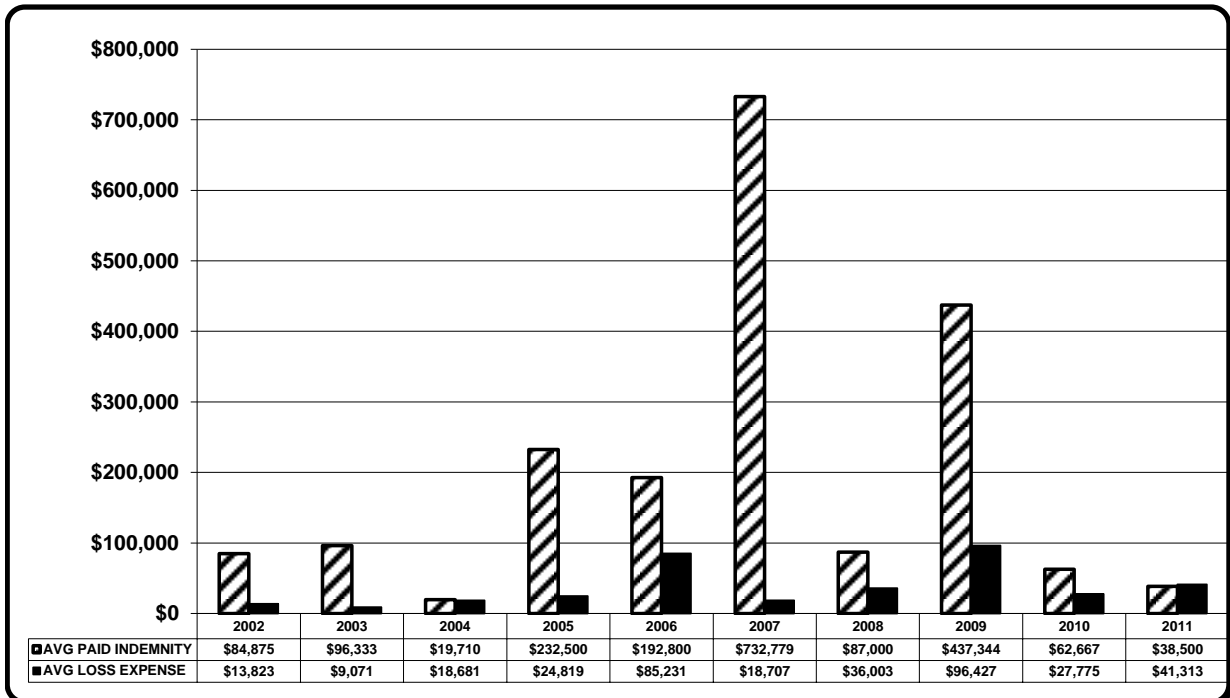


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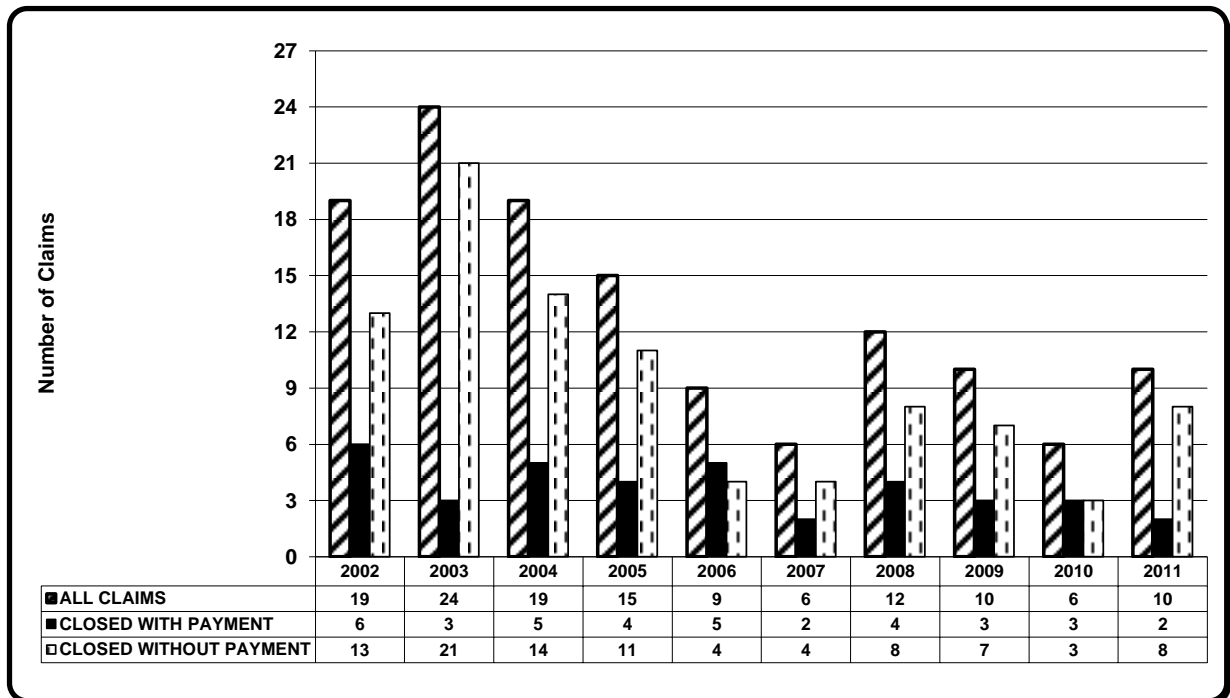


## BUSINESS TRANSACTION/COMMERCIAL LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

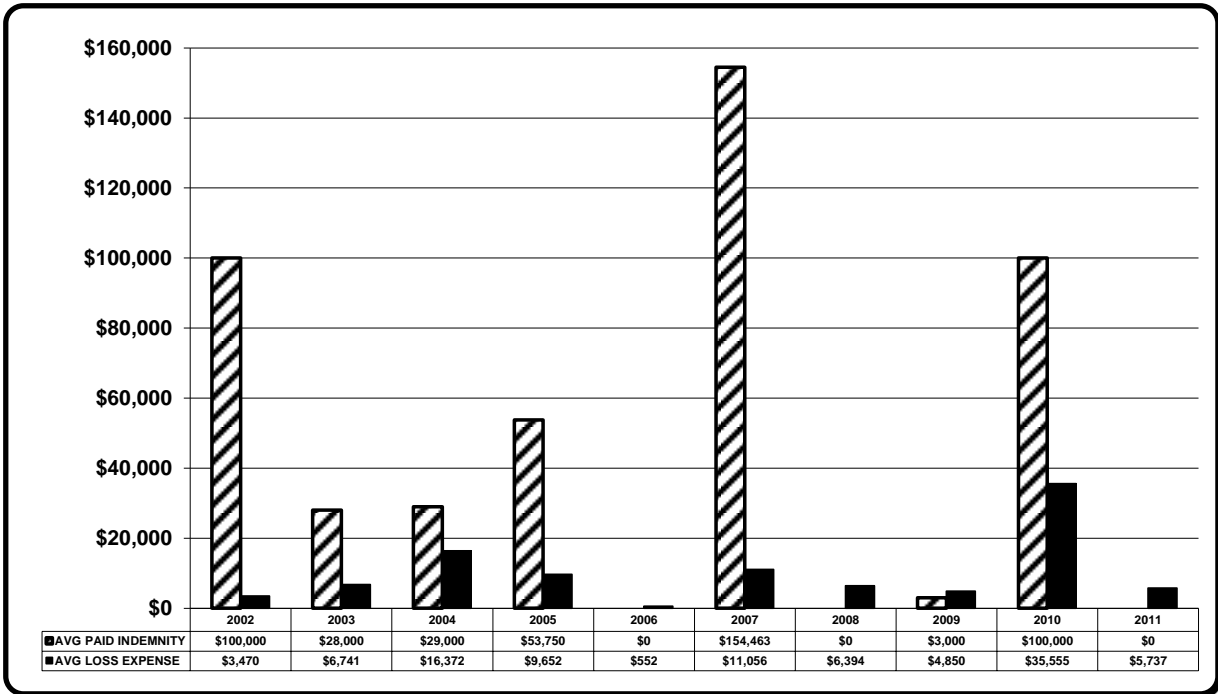


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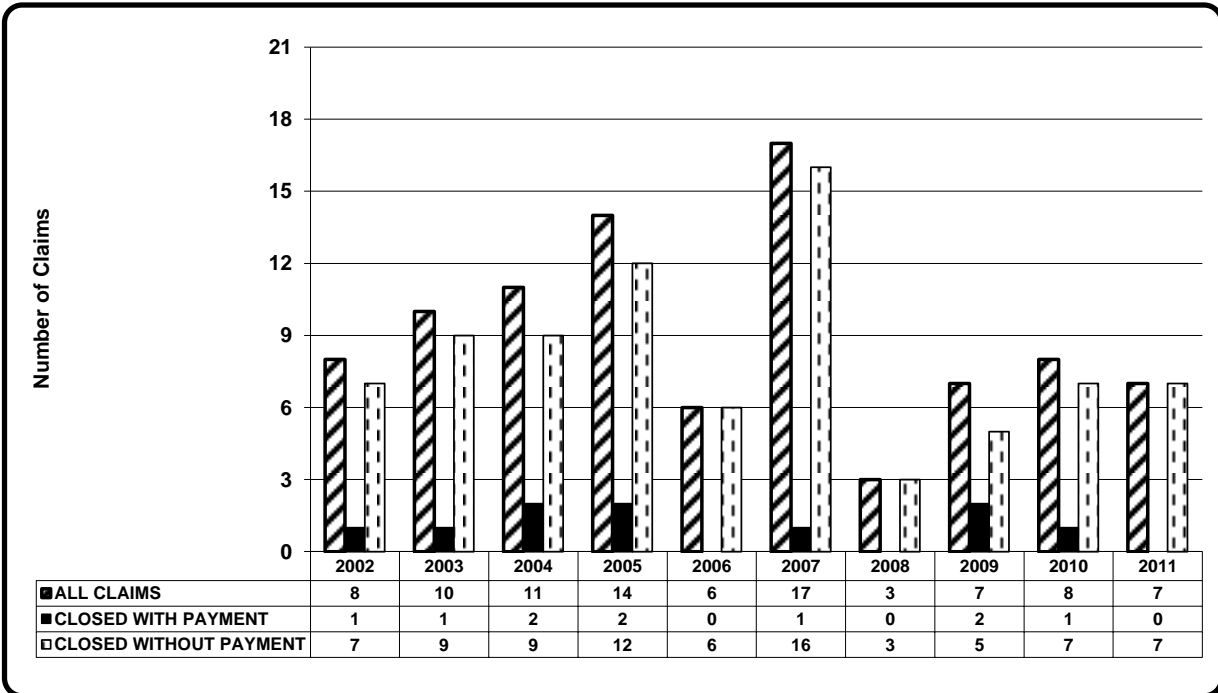


## CRIMINAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

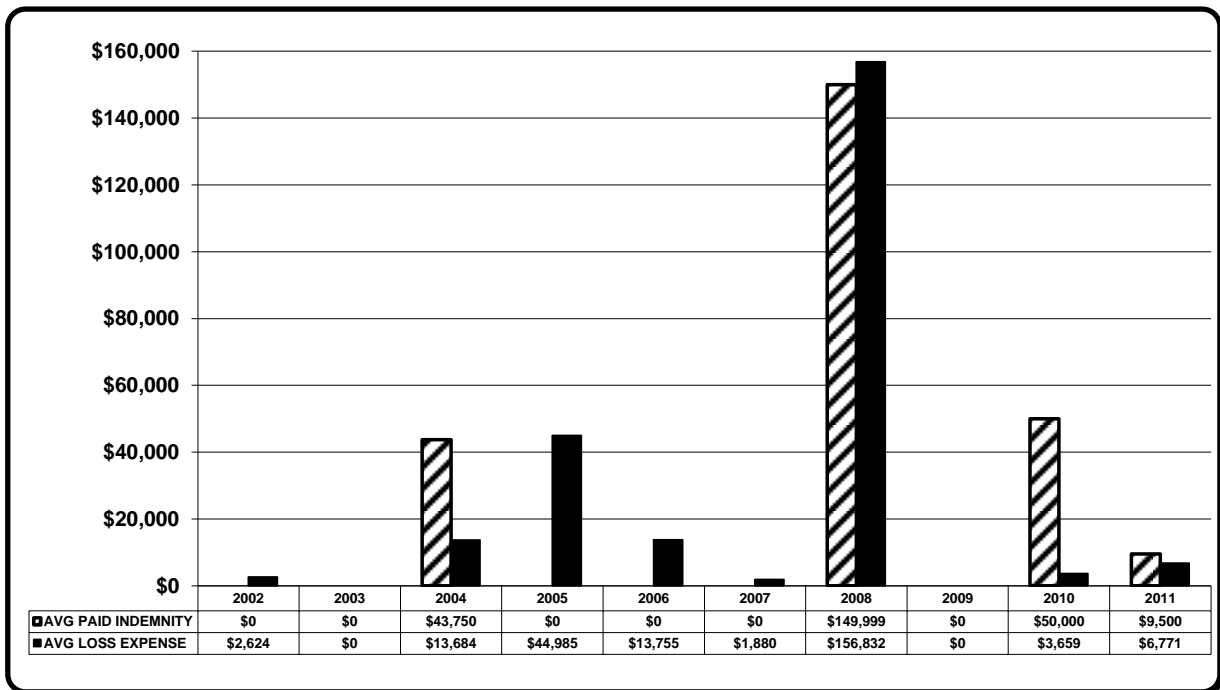


## CLAIM COUNT

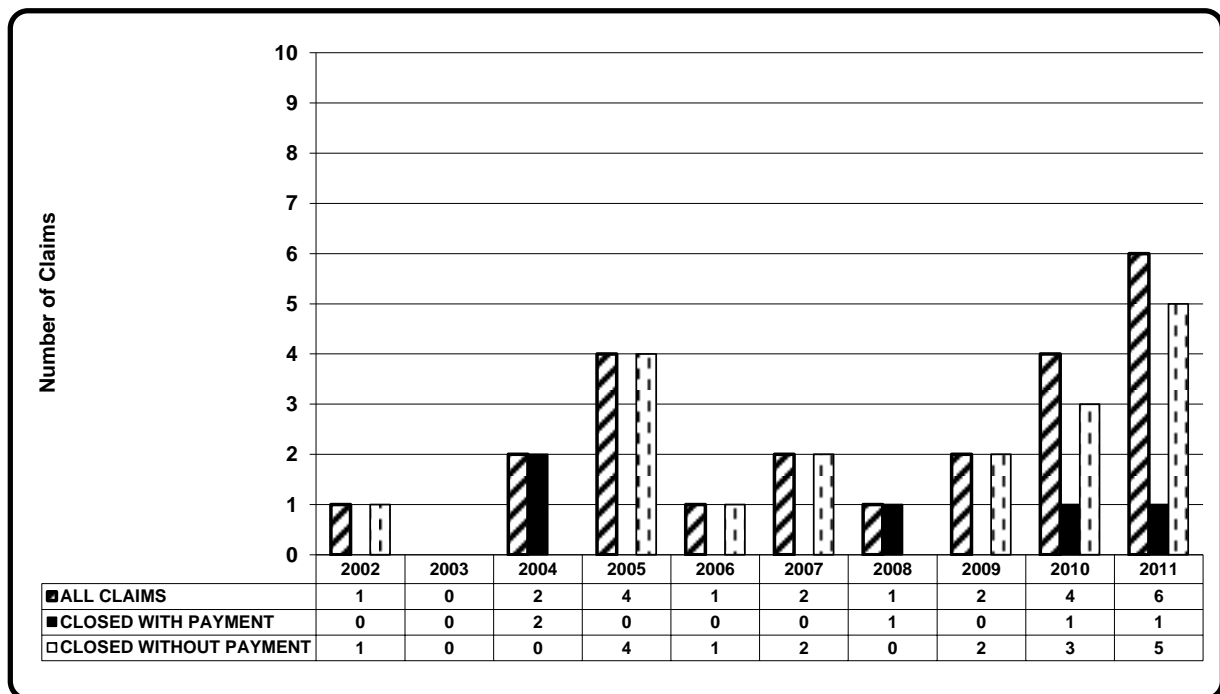


## CONSUMER CLAIMS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

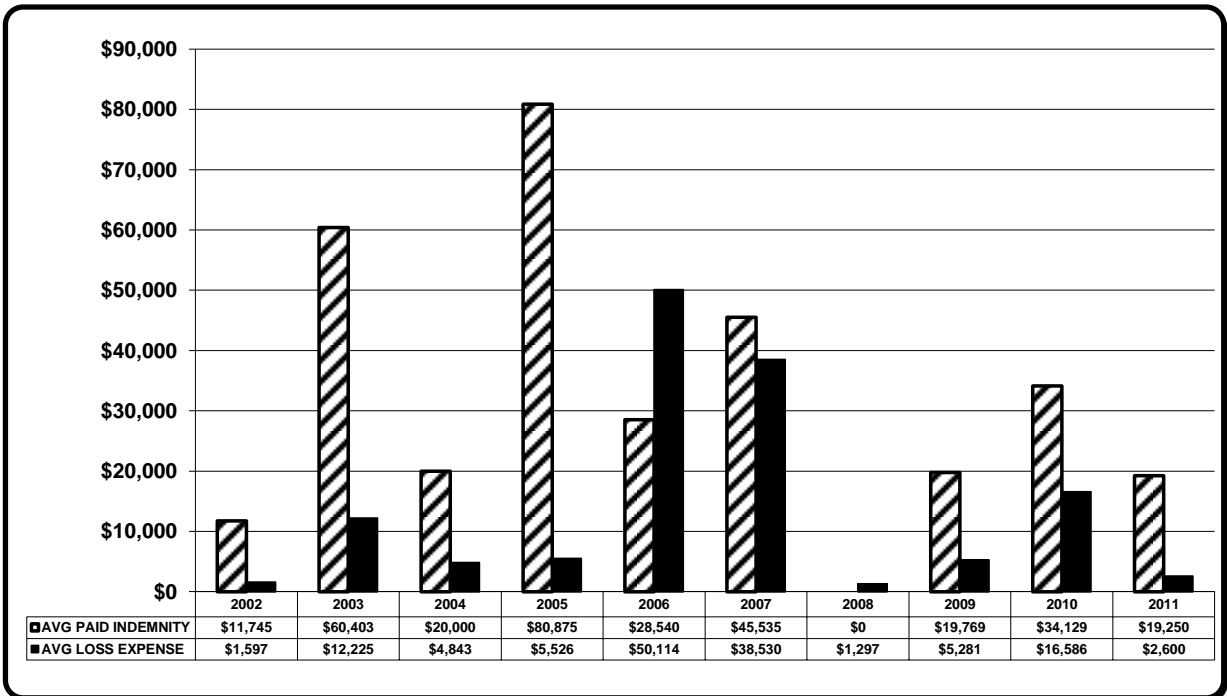


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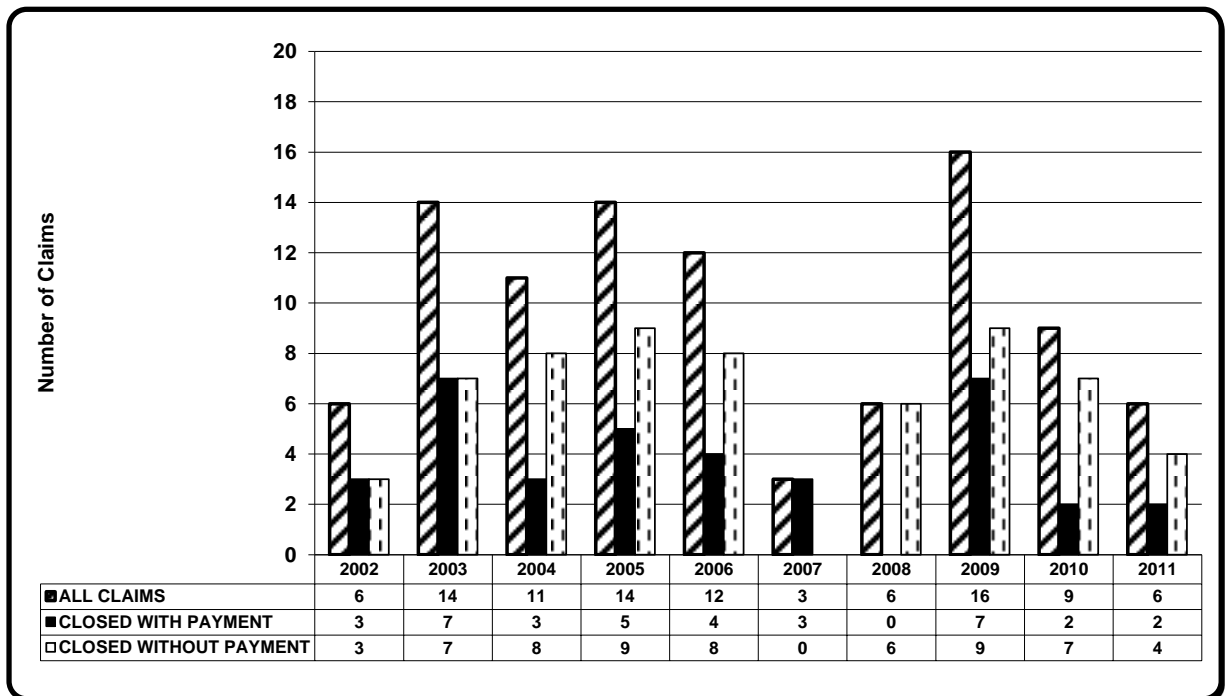


## WORKERS COMPENSATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
MAJOR ACTIVITY**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2002-2011

MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
COMMENCEMENT OF ACTION OR PROCEEDING	669	220	34.11%	\$86,481	\$19,025,751	29.74%	\$12,666
OTHER	400	90	13.95%	\$61,666	\$5,549,920	8.67%	\$11,582
PREPARATION, TRANSMITTAL OR FILING	260	79	12.25%	\$61,176	\$4,832,925	7.55%	\$21,221
PRE-TRIAL, PRE-HEARING	214	60	9.30%	\$83,293	\$4,997,582	7.81%	\$17,353
SETTLEMENT AND NEGOTIATION	204	50	7.75%	\$128,064	\$6,403,199	10.01%	\$17,348
CONSULTATION OR ADVICE	187	42	6.51%	\$304,948	\$12,807,816	20.02%	\$44,207
INVESTIGATION, OTHER THAN LITIGATION	133	39	6.05%	\$51,705	\$2,016,509	3.15%	\$15,015
TRIAL OR HEARING	124	24	3.72%	\$224,915	\$5,397,959	8.44%	\$32,490
POST TRIAL OR HEARING	77	11	1.71%	\$77,193	\$849,120	1.33%	\$9,552
APPEAL ACTIVITIES	57	11	1.71%	\$53,546	\$589,010	0.92%	\$15,288
EX PARTE PROCEEDINGS	46	14	2.17%	\$39,512	\$553,162	0.86%	\$17,997
REFERRAL TO ANOTHER PROFESSIONAL	11	0	0.00%	N/A	\$0	0.00%	\$2,703
TAX REPORTING OR PAYMENT	10	3	0.47%	\$123,026	\$369,078	0.58%	\$30,067
OTHER WRITTEN OPINION	5	1	0.16%	\$574,853	\$574,853	0.90%	\$22,523
TITLE OPINION	3	1	0.16%	\$10,425	\$10,425	0.02%	\$3
TOTAL	2,400	645	100.00%	\$99,190	\$63,977,309	100.00%	\$17,936

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011

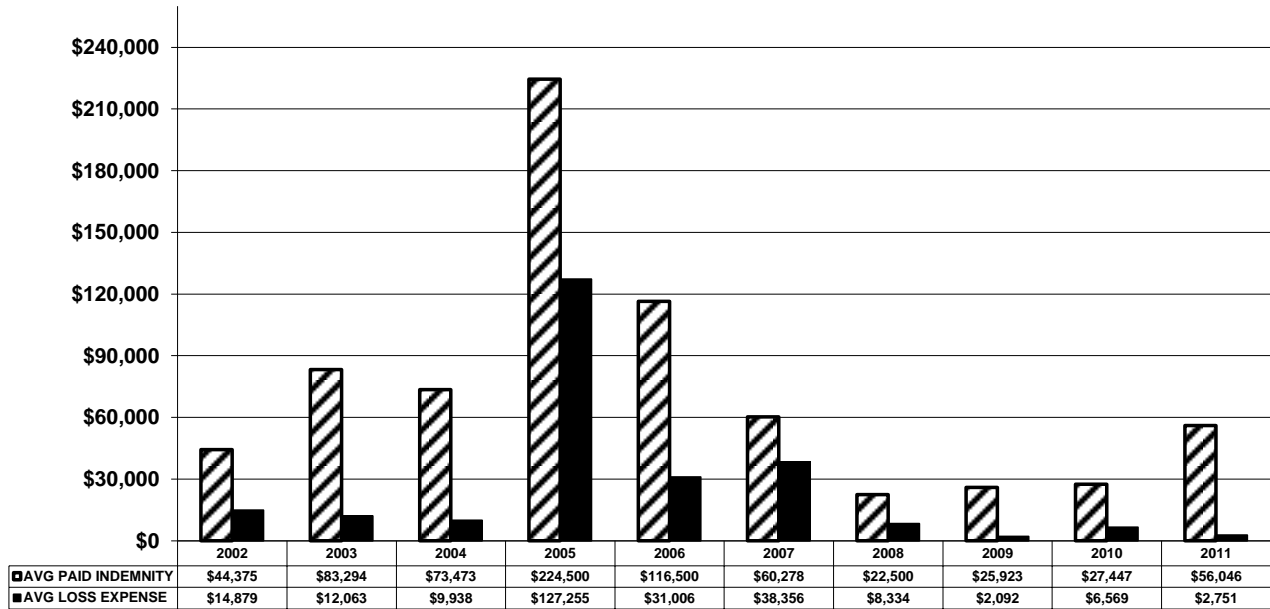
MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OTHER	97	24	34.78%	\$56,046	\$1,345,100	19.68%	\$2,751
COMMENCEMENT OF ACTION OR PROCEEDING	76	17	24.64%	\$97,996	\$1,665,929	24.37%	\$17,793
PRE-TRIAL, PRE-HEARING	21	13	18.84%	\$135,617	\$1,763,024	25.79%	\$36,136
PREPARATION, TRANSMITTAL OR FILING	18	8	11.59%	\$74,250	\$594,000	8.69%	\$39,168
CONSULTATION OR ADVICE	13	2	2.90%	\$42,500	\$85,000	1.24%	\$17,783
SETTLEMENT AND NEGOTIATION	7	2	2.90%	\$47,968	\$95,935	1.40%	\$2,654
TRIAL OR HEARING	7	1	1.45%	\$700,000	\$700,000	10.24%	\$7,309
APPEAL ACTIVITIES	6	1	1.45%	\$11,102	\$11,102	0.16%	\$963
INVESTIGATION, OTHER THAN LITIGATION	3	0	0.00%	N/A	\$0	0.00%	\$200,912
POST TRIAL OR HEARING	3	1	1.45%	\$575,000	\$575,000	8.41%	\$28,402
EX PARTE PROCEEDINGS	1	0	0.00%	N/A	\$0	0.00%	\$0
TAX REPORTING OR PAYMENT	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	253	69	100.00%	\$99,059	\$6,835,090	100.00%	\$16,117

**TRENDS  
OF THE TOP TEN  
MAJOR ACTIVITY  
OF 2011**

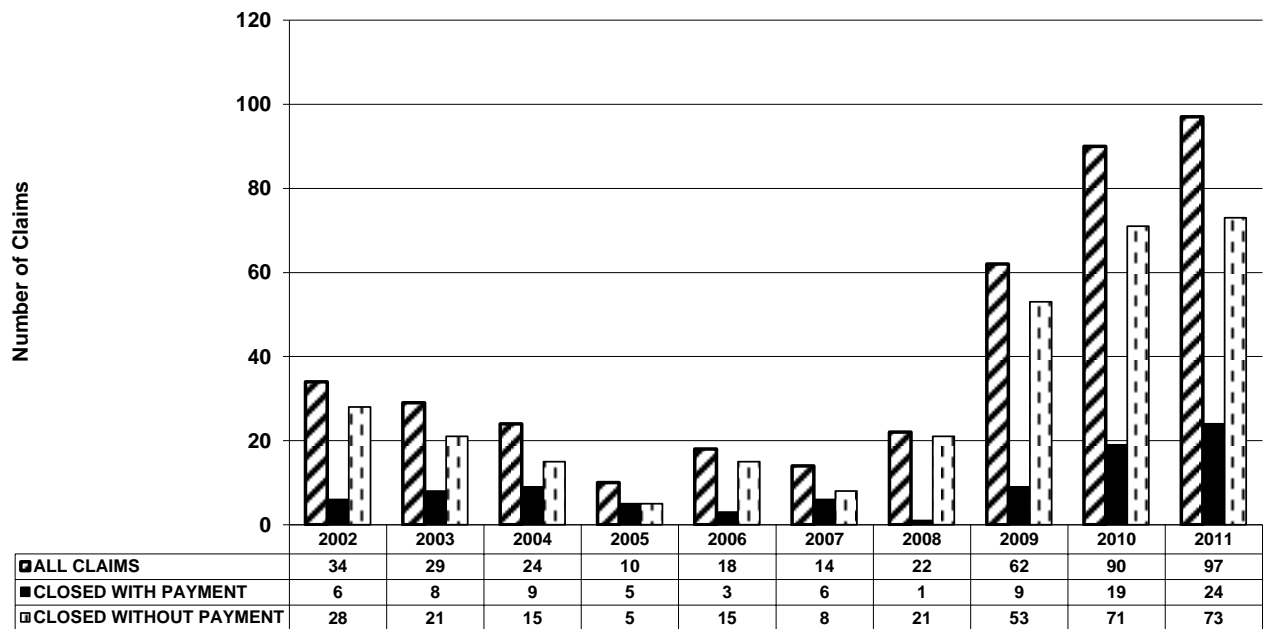


## OTHER

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

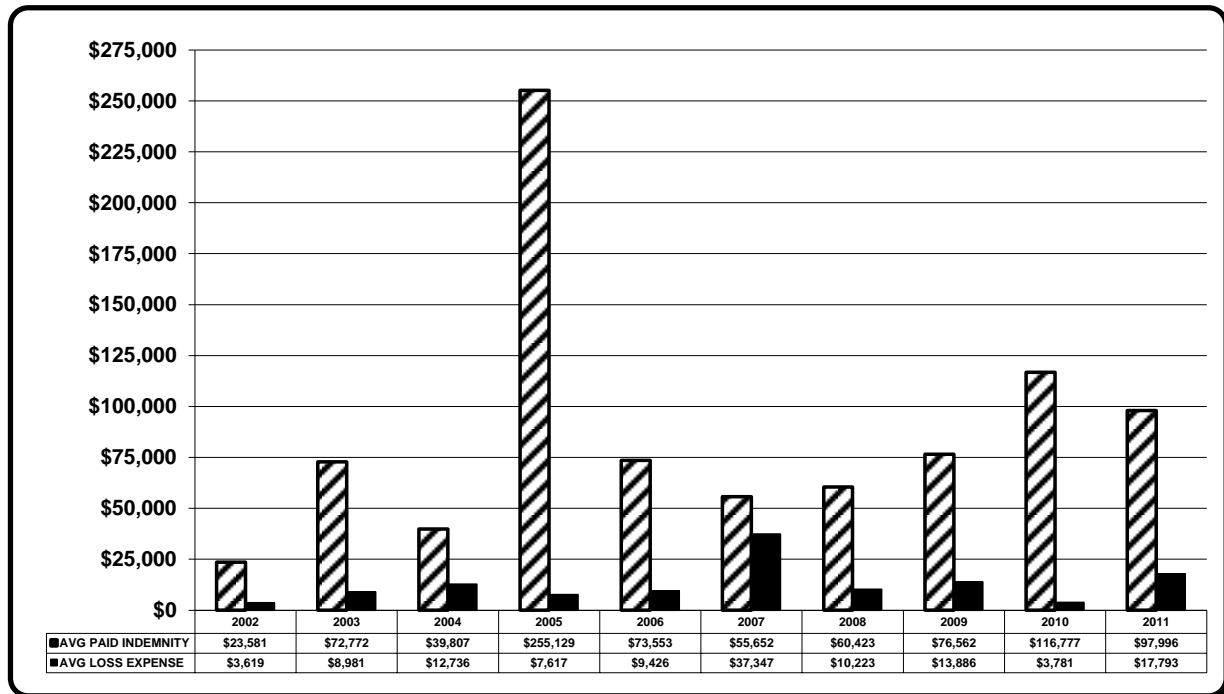


### CLAIM COUNT

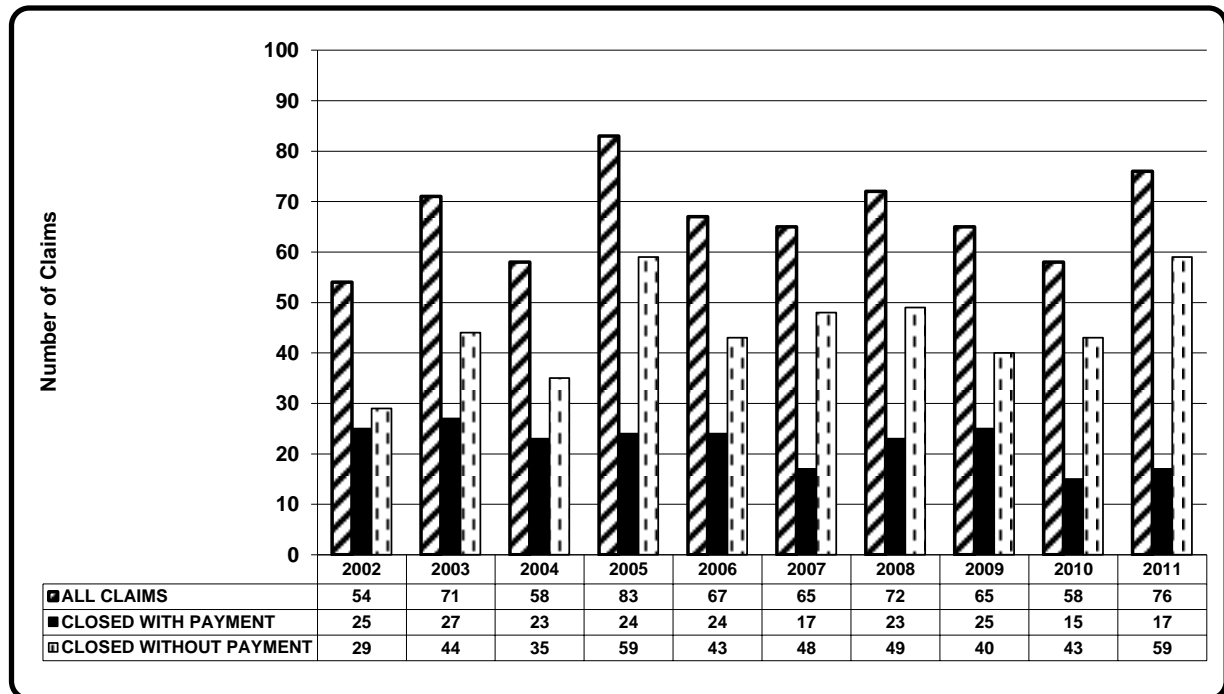


## COMMENCEMENT OF ACTION OR PROCEEDING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

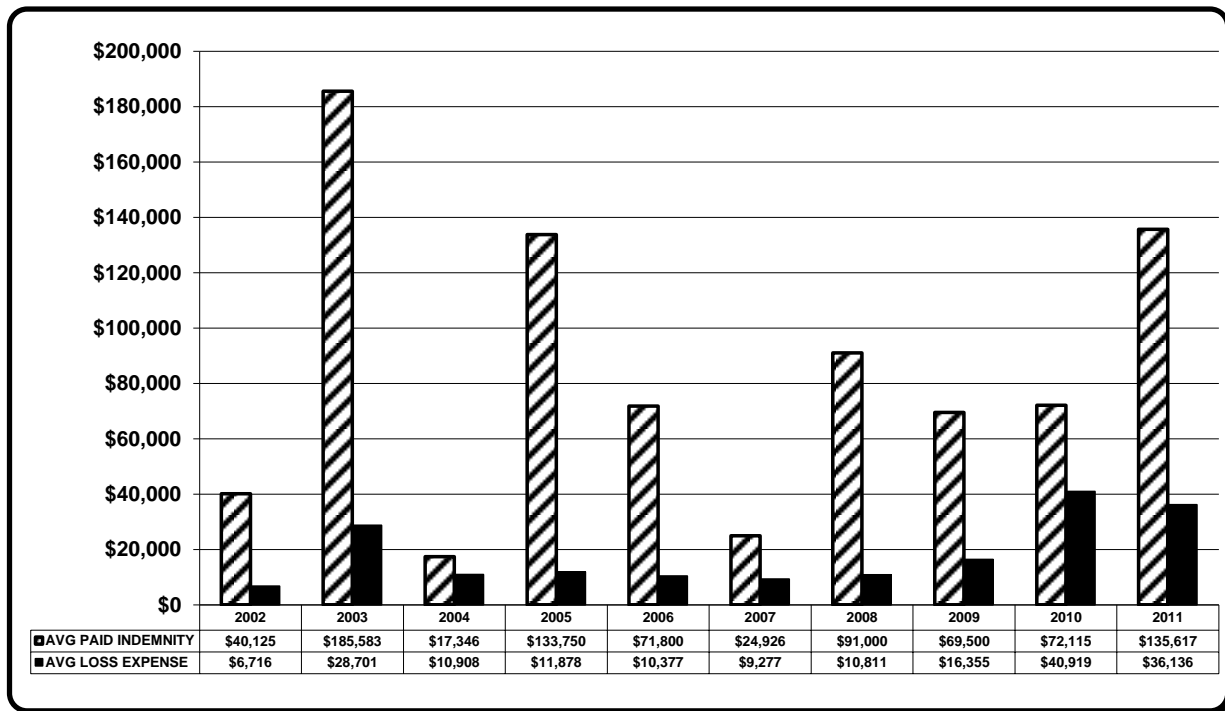


### CLAIM COUNT

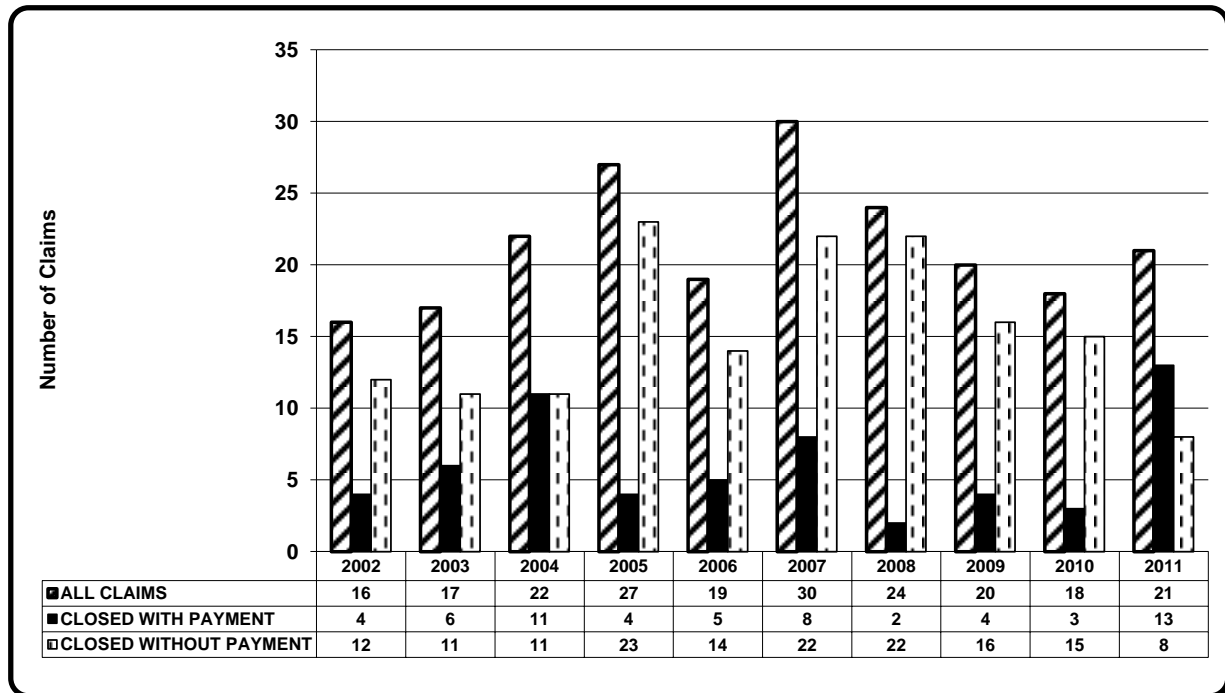


## PRE-TRIAL, PRE-HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

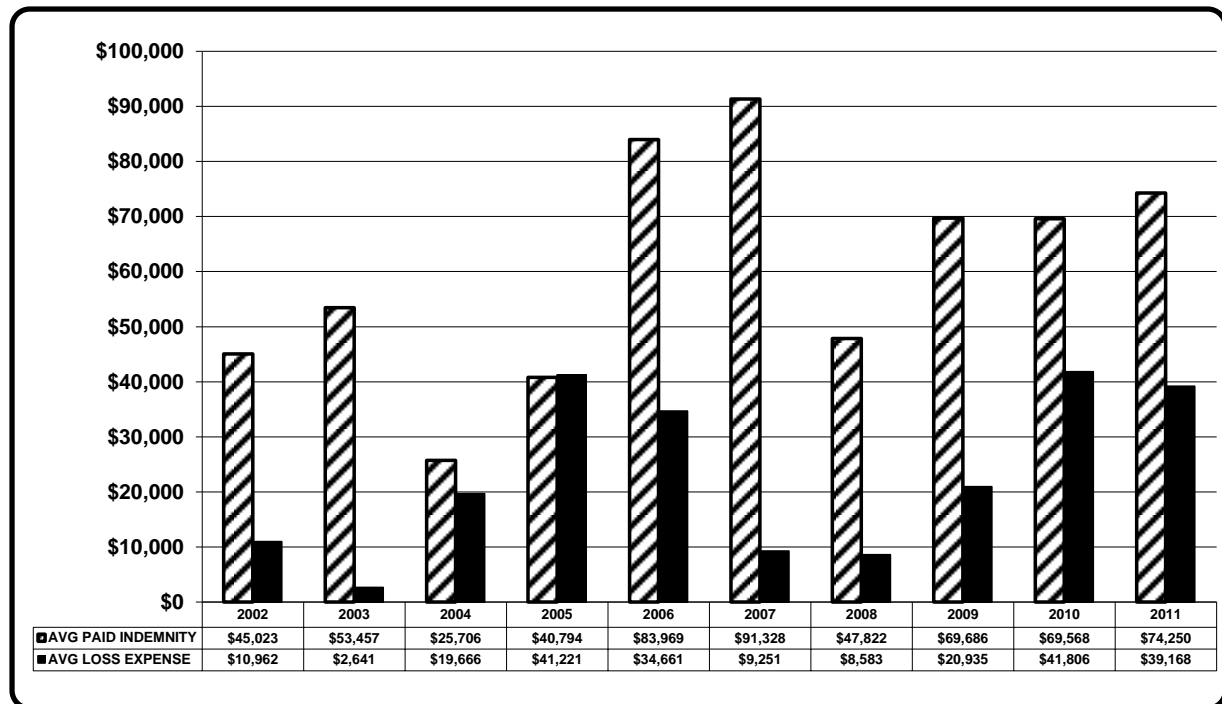


### CLAIM COUNT

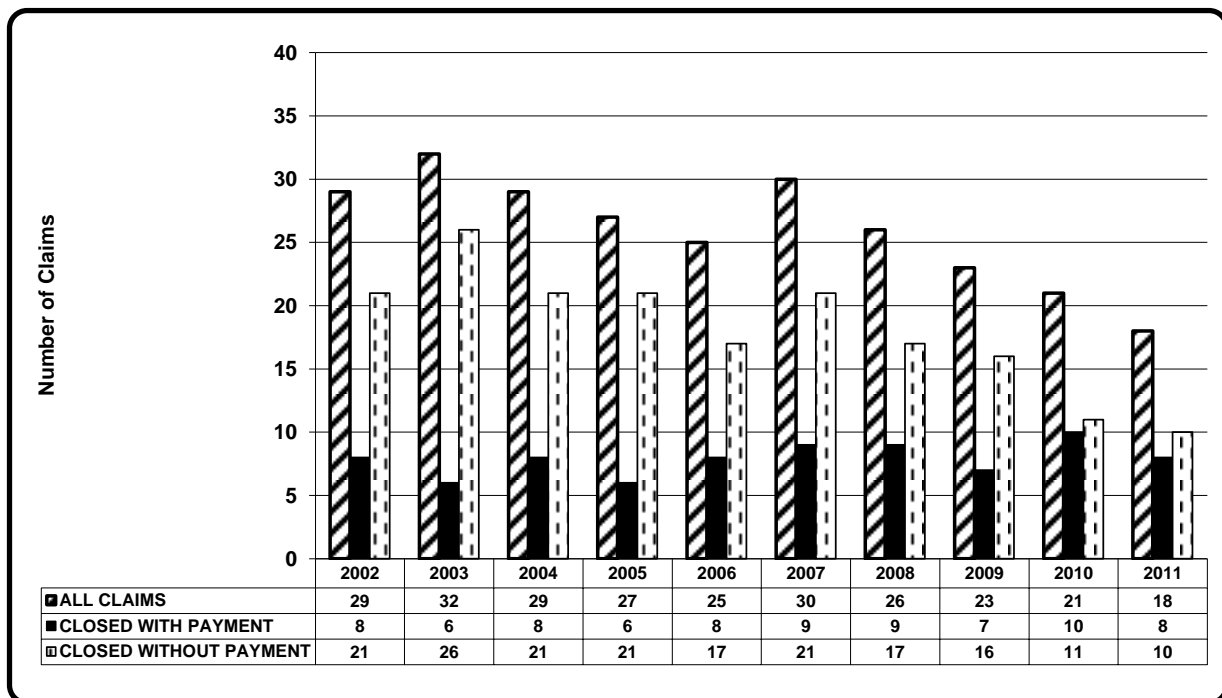


## PREPARATION, TRANSMITTAL OR FILING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



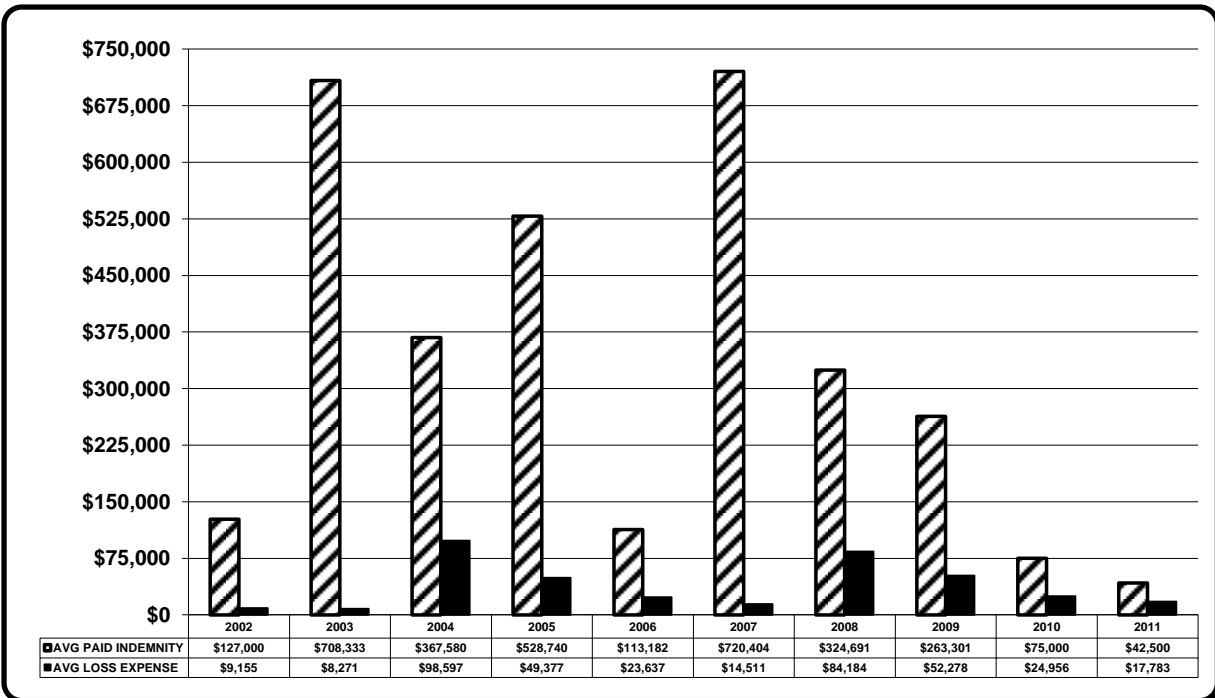
### CLAIM COUNT



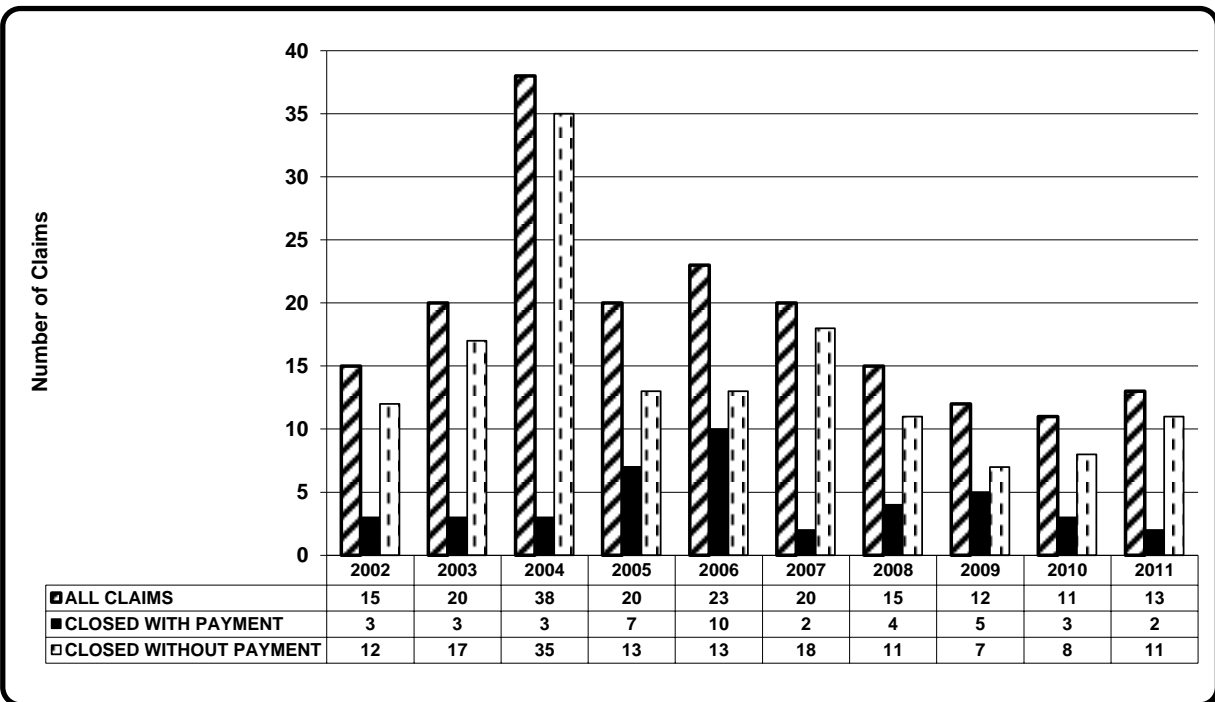


## CONSULTATION OR ADVICE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

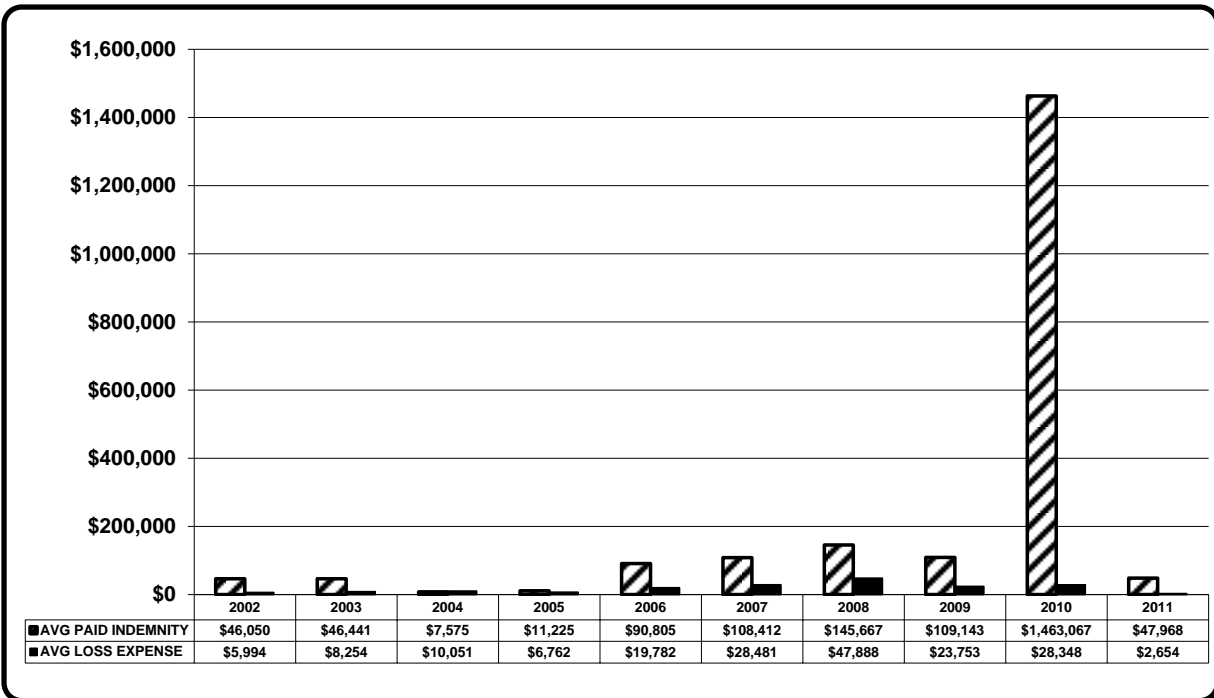


## CLAIM COUNT

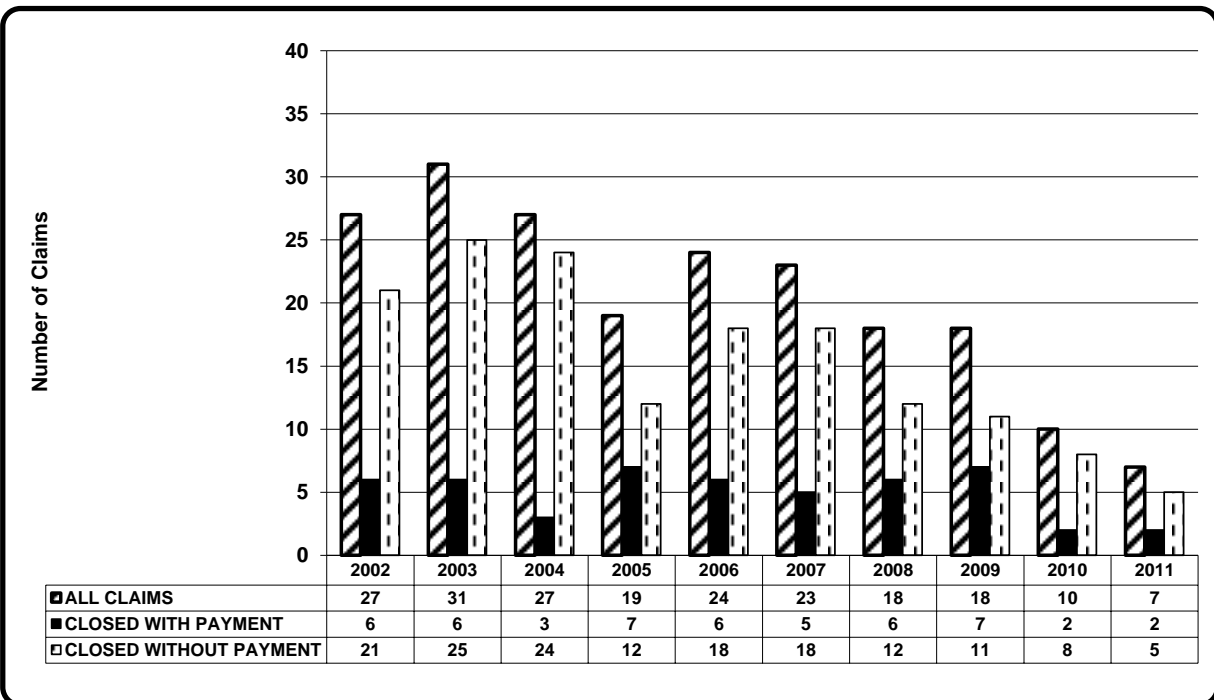


## SETTLEMENT AND NEGOTIATION

AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

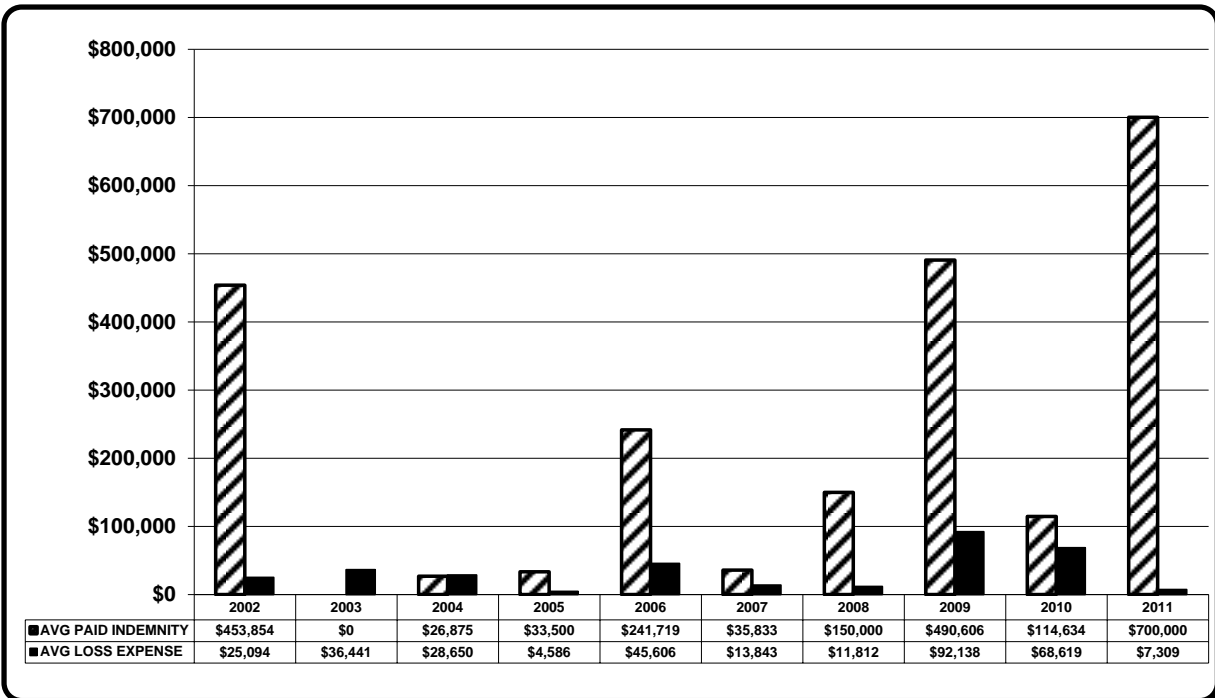


CLAIM COUNT

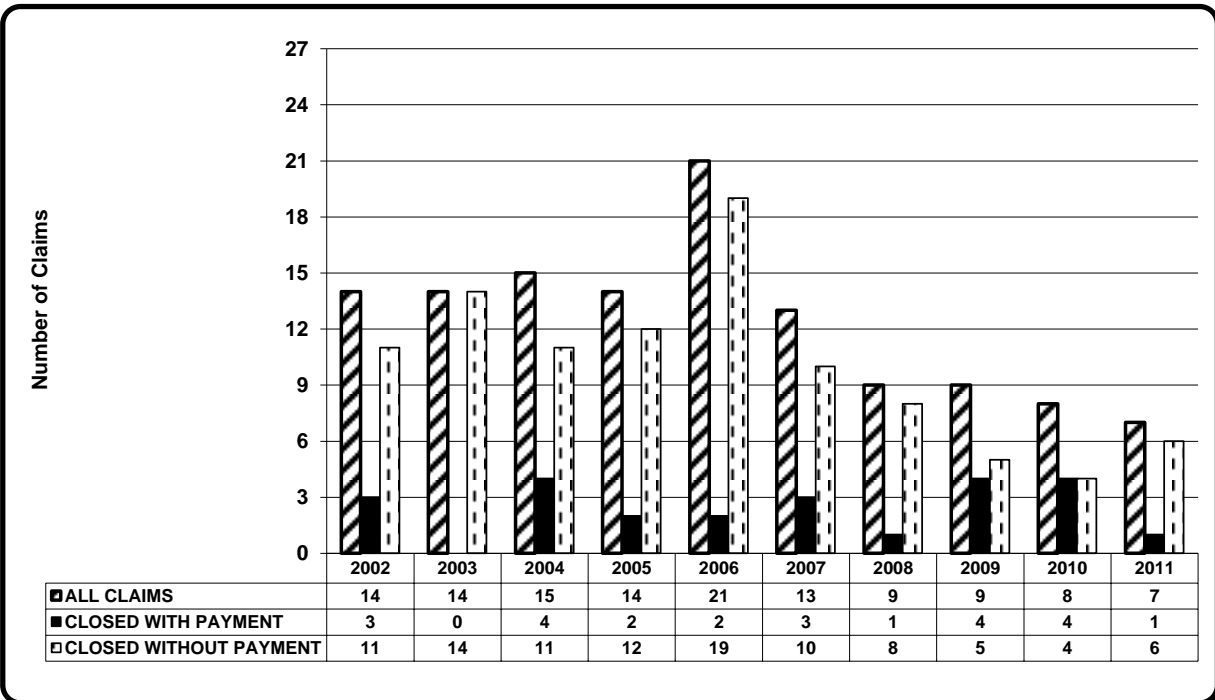


## TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

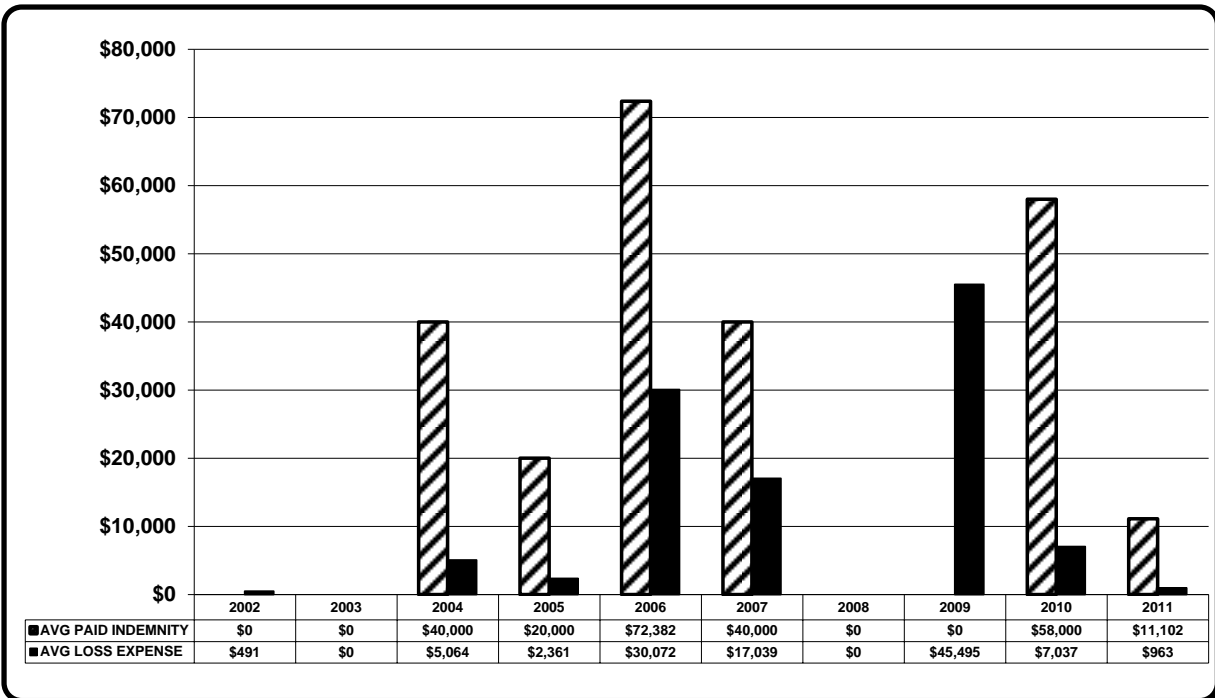


## CLAIM COUNT

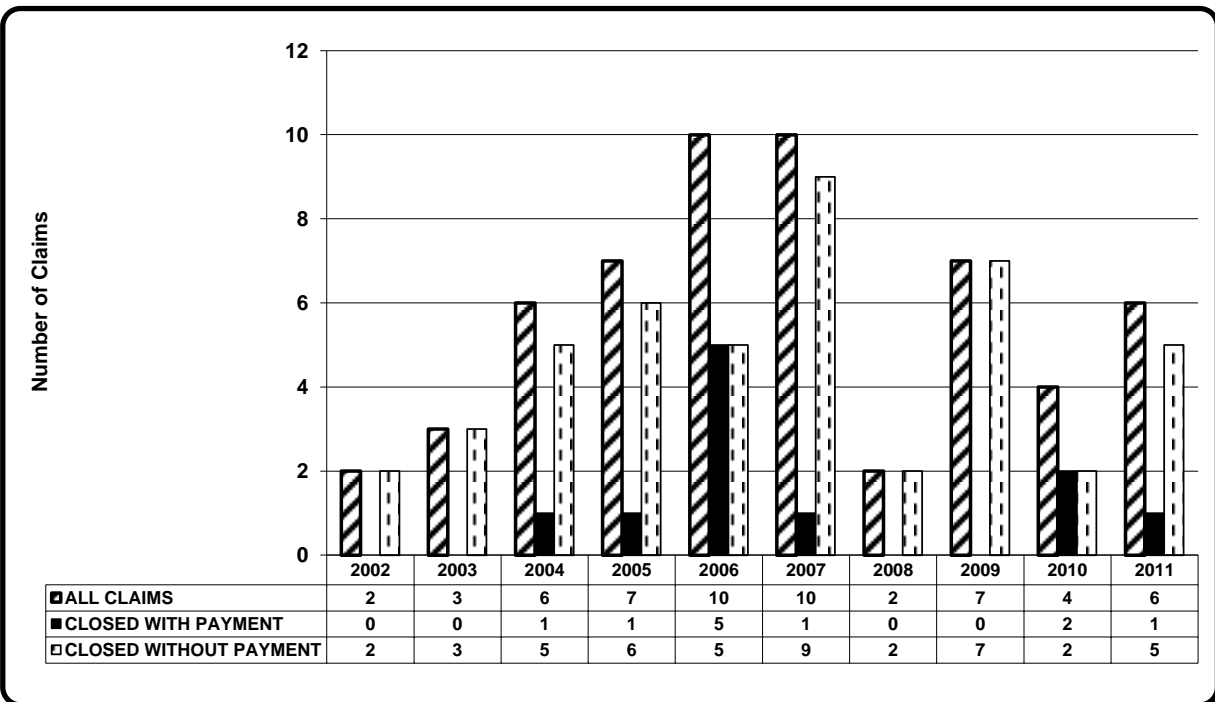


## APPEAL ACTIVITIES

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

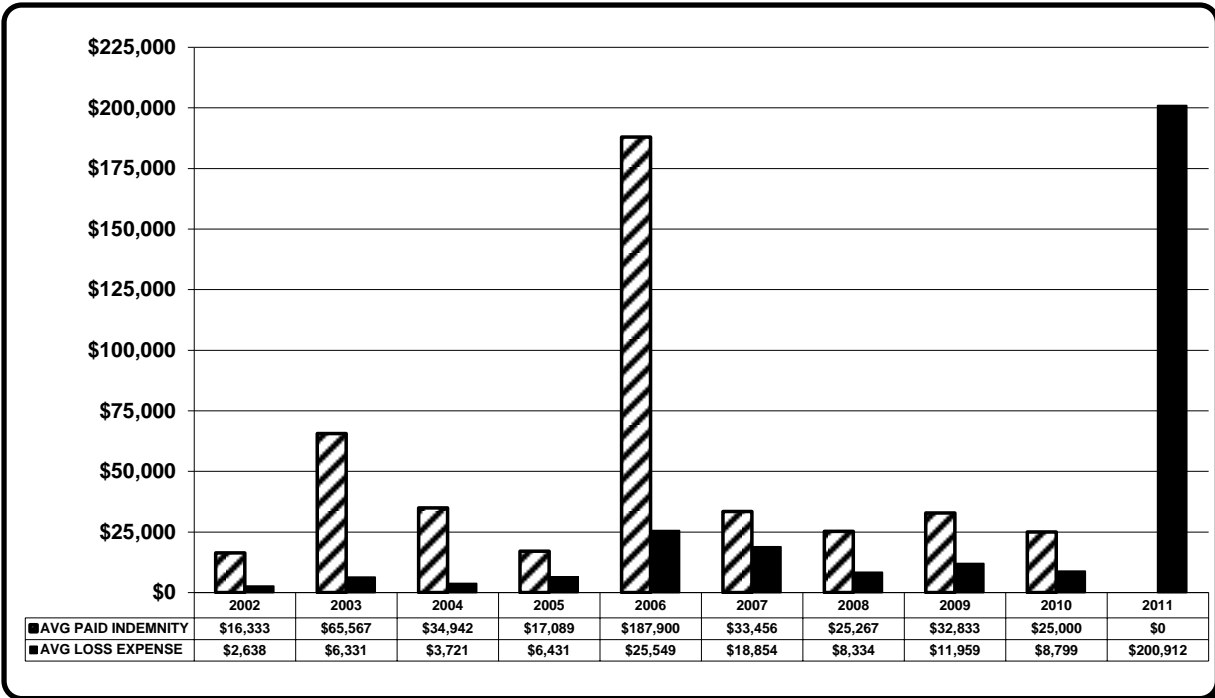


### CLAIM COUNT

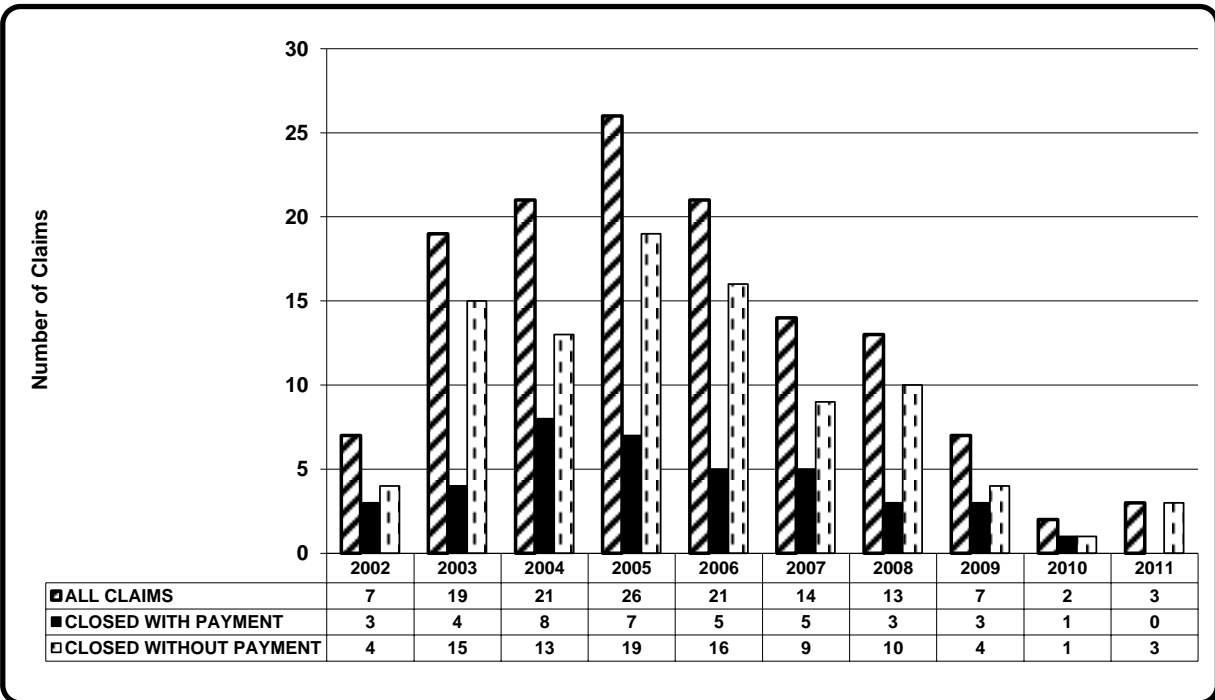


## INVESTIGATION, OTHER THAN LITIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

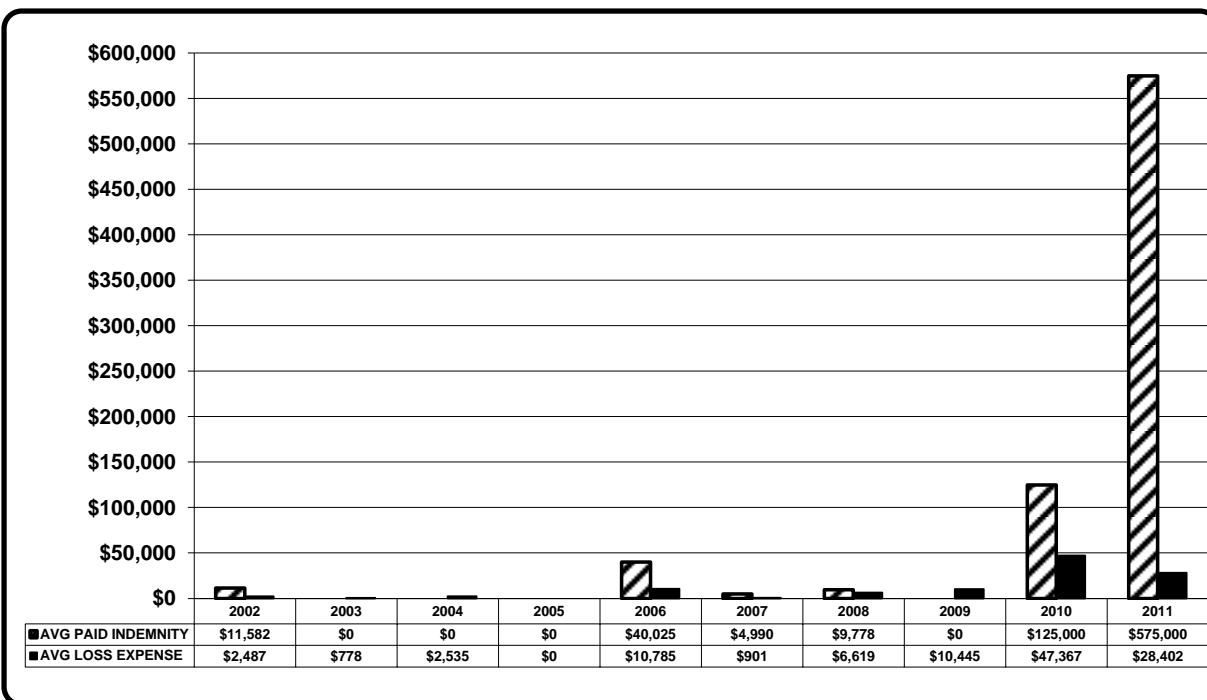


### CLAIM COUNT

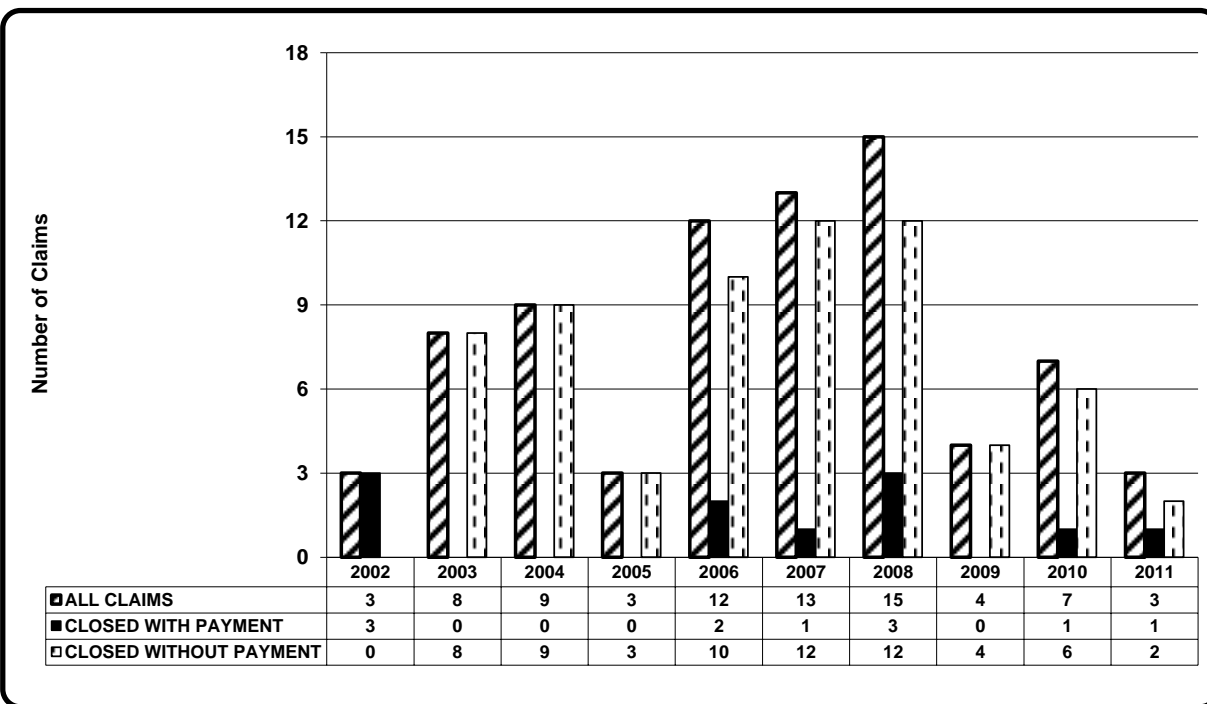


## POST TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
ALLEGED ERRORS OR OMISSIONS**





# LEGAL MALPRACTICE INSURANCE

## INDEMNITY ANALYSIS

### FOR YEARS 2002-2011

ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
FAIL TO ASCERTAIN DEADLINE CORRECTLY	370	146	22.64%	\$74,969	\$10,945,471	17.11%	\$18,137
OTHER	342	56	8.68%	\$68,732	\$3,848,970	6.02%	\$8,289
PLANNING OR STRATEGY ERROR	244	66	10.23%	\$258,346	\$17,050,851	26.65%	\$33,229
PROCRASTINATION OR LACK OF FOLLOW-UP	192	53	8.22%	\$147,604	\$7,823,019	12.23%	\$16,723
FAIL TO KNOW OR PROPERLY APPLY THE LAW	175	51	7.91%	\$140,385	\$7,159,613	11.19%	\$21,068
INADEQUATE INVESTIGATION	131	29	4.50%	\$79,359	\$2,301,419	3.60%	\$22,503
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	114	21	3.26%	\$74,403	\$1,562,461	2.44%	\$13,762
FAILURE TO REACT TO CALENDAR	106	49	7.60%	\$52,413	\$2,568,215	4.01%	\$5,398
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	92	27	4.19%	\$65,532	\$1,769,375	2.77%	\$15,702
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	88	14	2.17%	\$20,036	\$280,500	0.44%	\$16,084
FAIL TO OBTAIN CLIENTS CONSENT	79	11	1.71%	\$62,876	\$691,634	1.08%	\$53,445
FRAUD	79	13	2.02%	\$43,476	\$565,193	0.88%	\$18,533
FAILURE TO CALENDAR PROPERLY	77	40	6.20%	\$69,044	\$2,761,742	4.32%	\$11,096
CONFLICT OF INTEREST	75	16	2.48%	\$167,091	\$2,673,449	4.18%	\$31,002
CLERICAL ERROR	63	22	3.41%	\$23,508	\$517,178	0.81%	\$7,421
VIOLATION OF CIVIL RIGHTS	47	4	0.62%	\$57,500	\$230,000	0.36%	\$5,889
ERROR IN MATHEMATICAL CALCULATION	31	9	1.40%	\$46,767	\$420,903	0.66%	\$6,185
IMPROPER WITHDRAWAL FROM REPRESENTATION	31	8	1.24%	\$37,339	\$298,710	0.47%	\$7,662
ERROR IN PUBLIC RECORD SEARCH	20	5	0.78%	\$78,521	\$392,606	0.61%	\$15,858
LIBEL OR SLANDER	20	0	0.00%	N/A	\$0	0.00%	\$3,499
FAIL TO ANTICIPATE TAX CONSEQUENCES	15	3	0.47%	\$30,333	\$91,000	0.14%	\$1,195
LOST FILE, DOCUMENT OR EVIDENCE	8	2	0.31%	\$12,500	\$25,000	0.04%	\$12,680
NOT SPECIFIED	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	2,400	645	100.00%	\$99,190	\$63,977,309	100.00%	\$17,936

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011

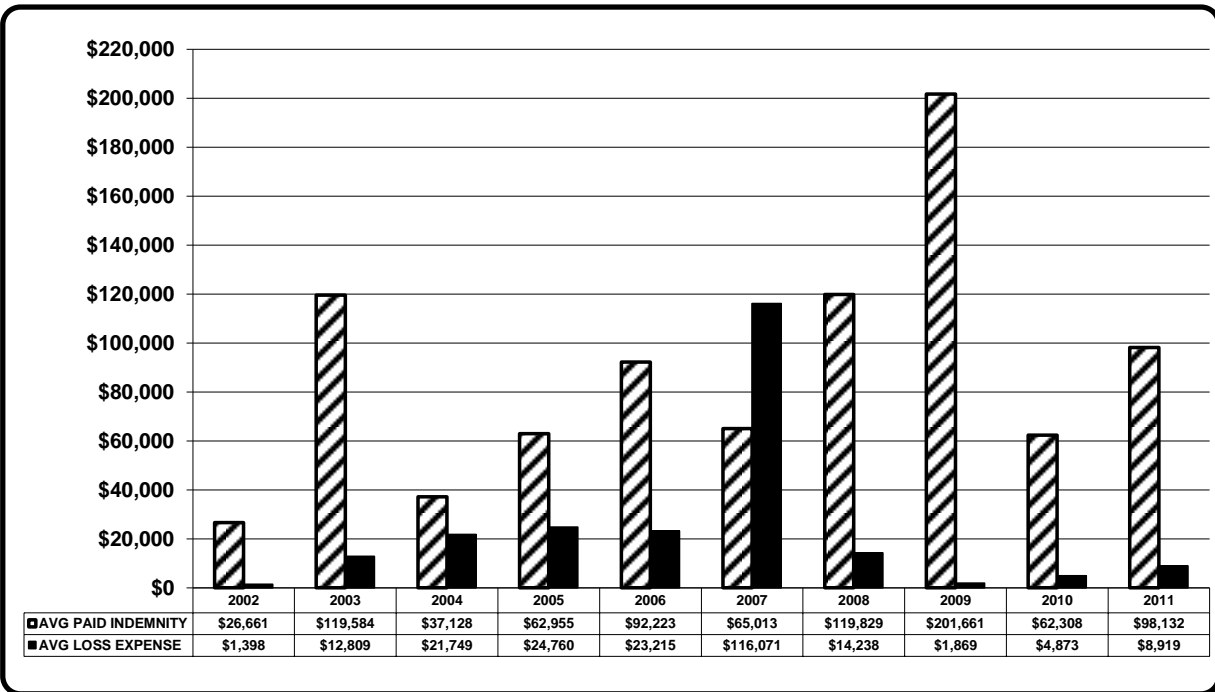
ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY		TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
				PAID PER CLAIM	CLAIM			
FAIL TO ASCERTAIN DEADLINE CORRECTLY	49	14	20.29%	\$98,132		\$1,373,850	20.10%	\$8,919
OTHER	44	6	8.70%	\$52,733		\$316,400	4.63%	\$1,069
PLANNING OR STRATEGY ERROR	28	9	13.04%	\$247,734		\$2,229,606	32.62%	\$14,699
FAIL TO KNOW OR PROPERLY APPLY THE LAW	18	8	11.59%	\$83,500		\$668,000	9.77%	\$12,563
FRAUD	17	4	5.80%	\$57,801		\$231,203	3.38%	\$22,741
INADEQUATE INVESTIGATION	17	6	8.70%	\$74,500		\$447,000	6.54%	\$14,309
PROCRASTINATION OR LACK OF FOLLOW-UP	14	4	5.80%	\$217,500		\$870,000	12.73%	\$15,319
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	11	2	2.90%	\$30,250		\$60,500	0.89%	\$12,257
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	9	3	4.35%	\$25,201		\$75,602	1.11%	\$15,479
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	8	2	2.90%	\$31,250		\$62,500	0.91%	\$51,105
CLERICAL ERROR	6	2	2.90%	\$51,000		\$102,000	1.49%	\$50,230
CONFLICT OF INTEREST	6		0.00%	N/A		\$0	0.00%	\$59,676
VIOLATION OF CIVIL RIGHTS	6	1	1.45%	\$30,000		\$30,000	0.44%	\$4,195
FAIL TO OBTAIN CLIENTS CONSENT	5		0.00%	N/A		\$0	0.00%	\$118,558
FAILURE TO REACT TO CALENDAR	5	4	5.80%	\$64,749		\$258,994	3.79%	\$2,400
FAILURE TO CALENDAR PROPERLY	4	1	1.45%	\$50,000		\$50,000	0.73%	\$22,858
ERROR IN MATHEMATICAL CALCULATION	3	2	2.90%	\$22,968		\$45,935	0.67%	\$2,490
ERROR IN PUBLIC RECORD SEARCH	2	1	1.45%	\$13,500		\$13,500	0.20%	\$10,610
IMPROPER WITHDRAWAL FROM REPRESENTATION	1		0.00%	N/A		\$0	0.00%	\$19,076
TOTAL	253	69	100.00%	\$99,059		\$6,835,090	100.00%	\$16,117

**TRENDS  
OF THE TOP TEN  
ERRORS OR OMISSIONS  
OF 2011**

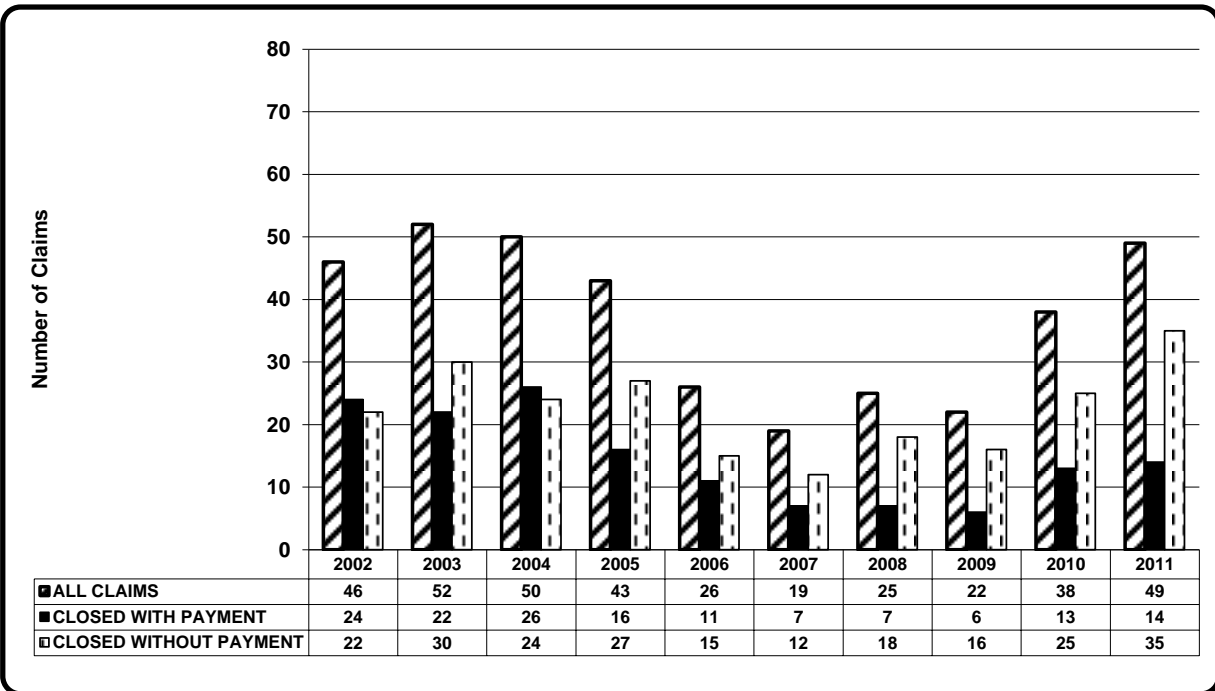


## FAILURE TO ASCERTAIN DEADLINE CORRECTLY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

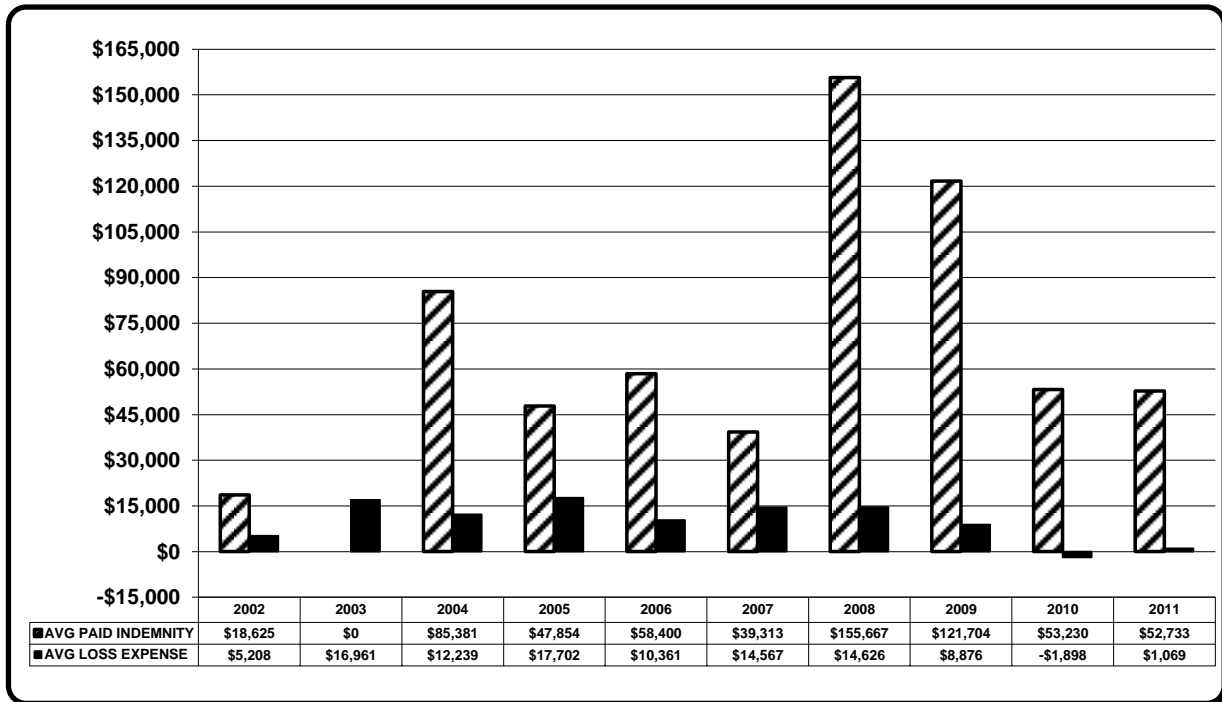


### CLAIM COUNT

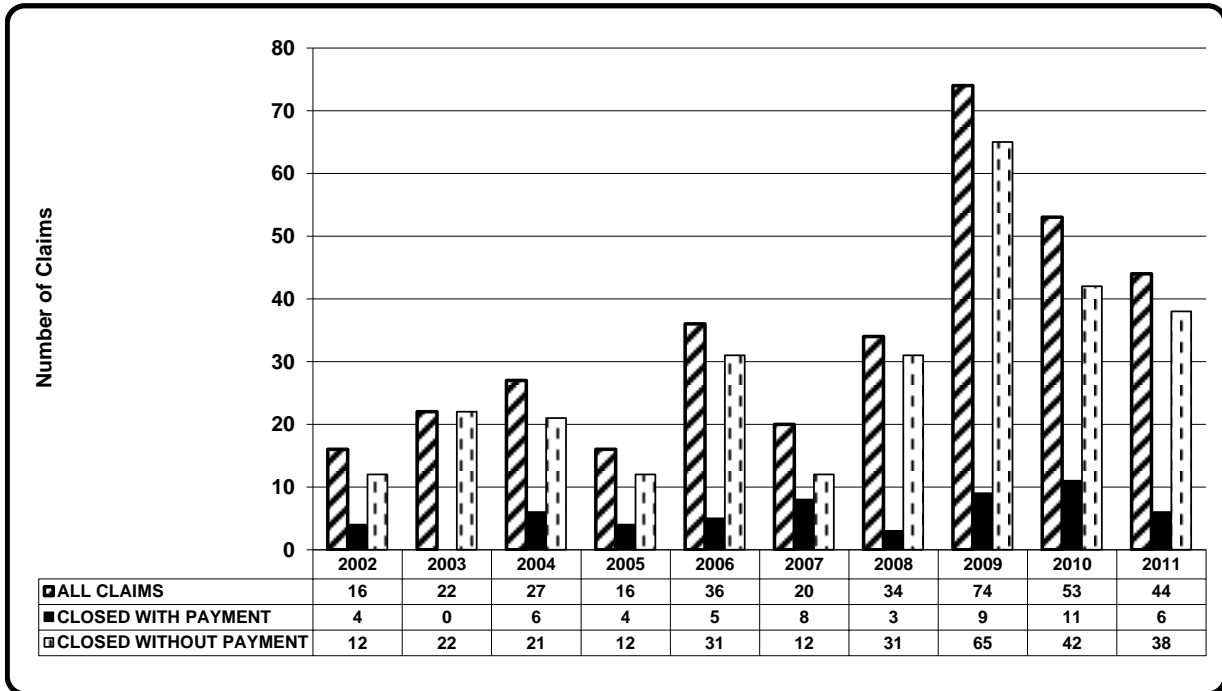


## OTHER

AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

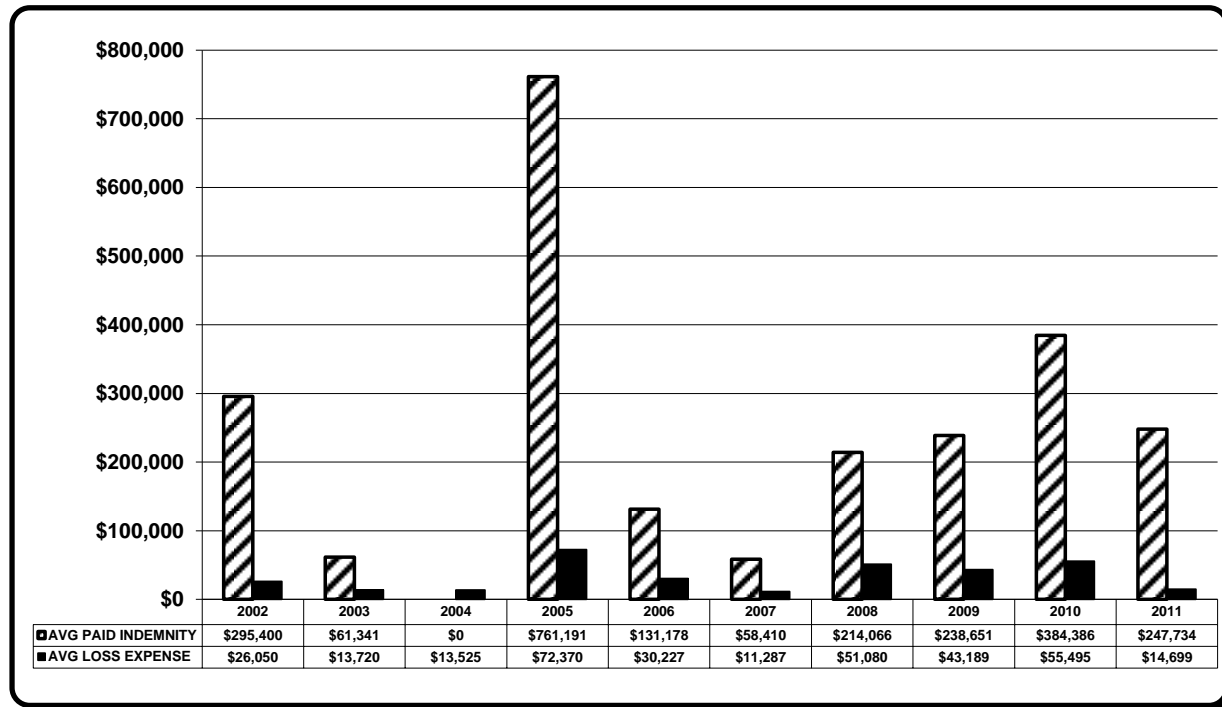


## CLAIM COUNT

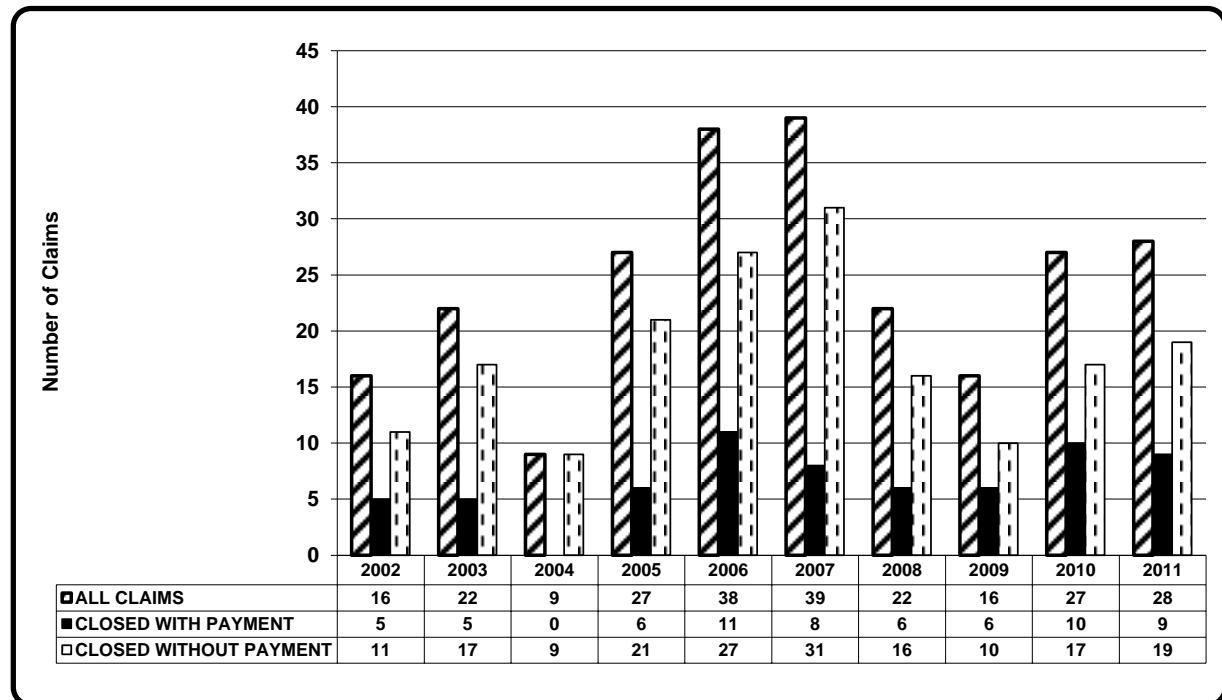


## PLANNING OR STRATEGY

AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

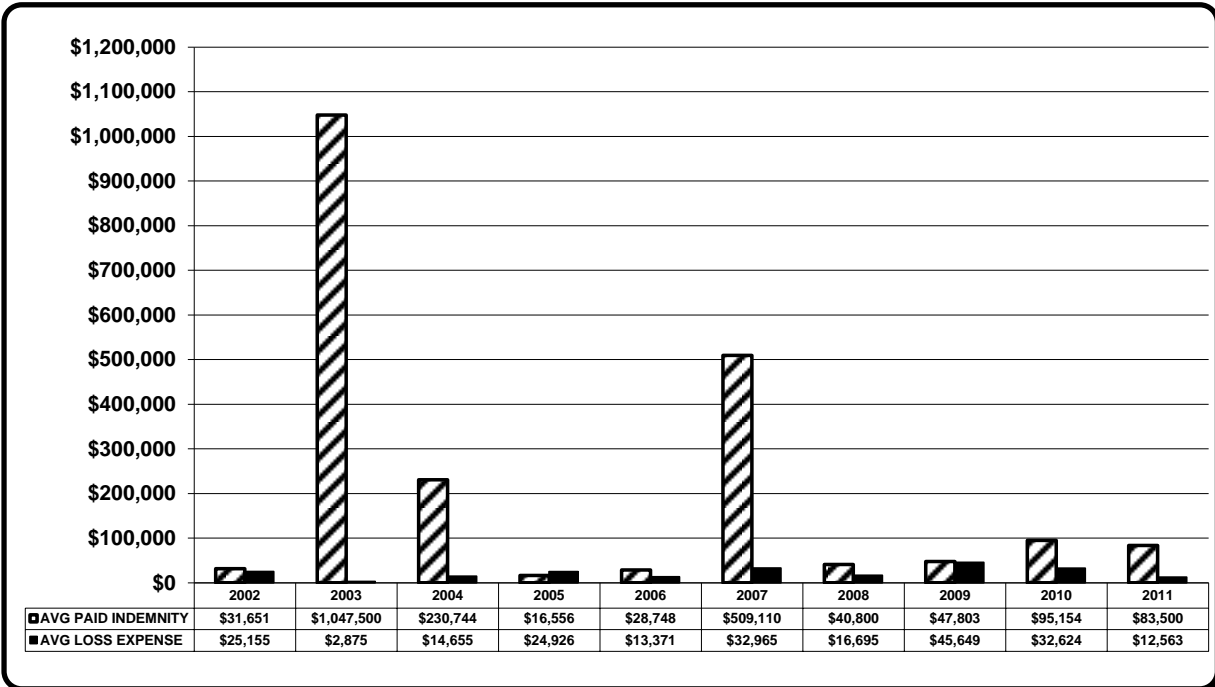


CLAIM COUNT

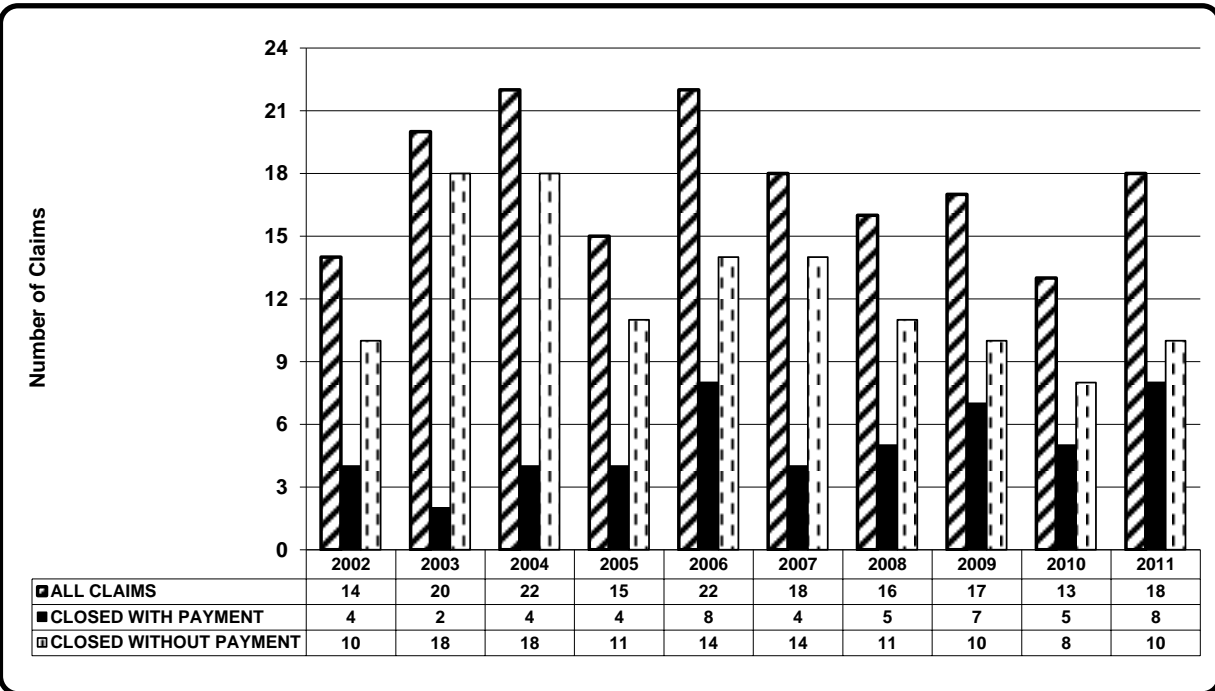


## FAILURE TO KNOW OR PROPERLY APPLY THE LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



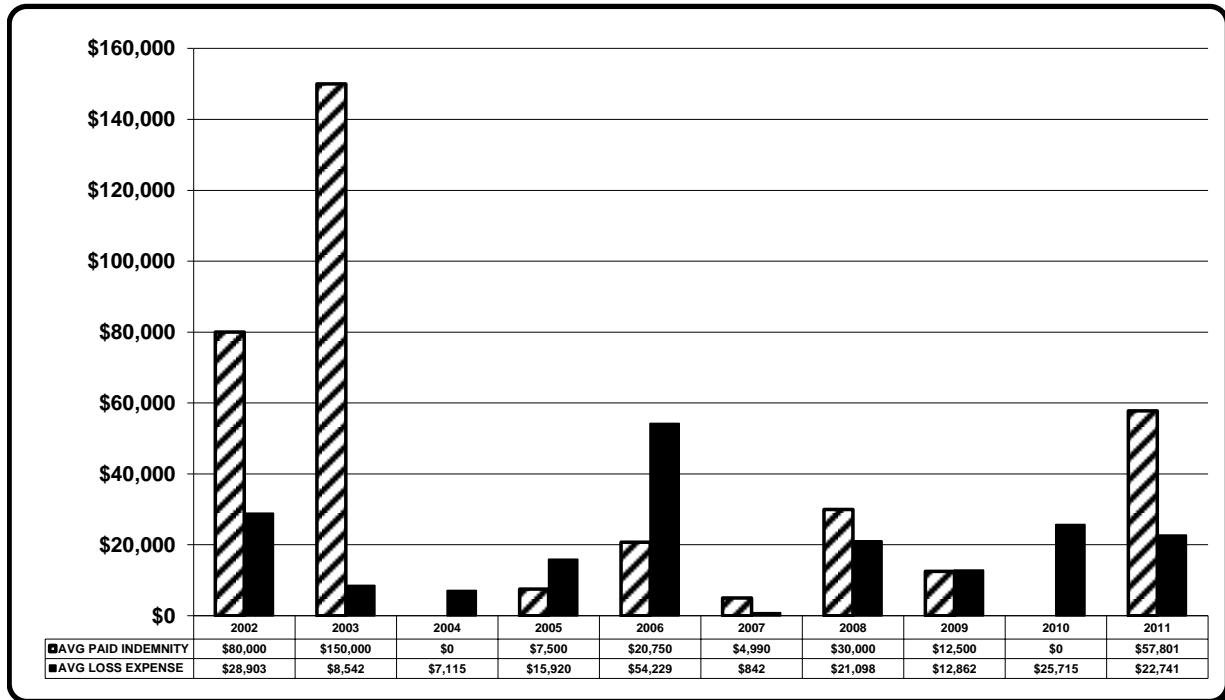
### CLAIM COUNT



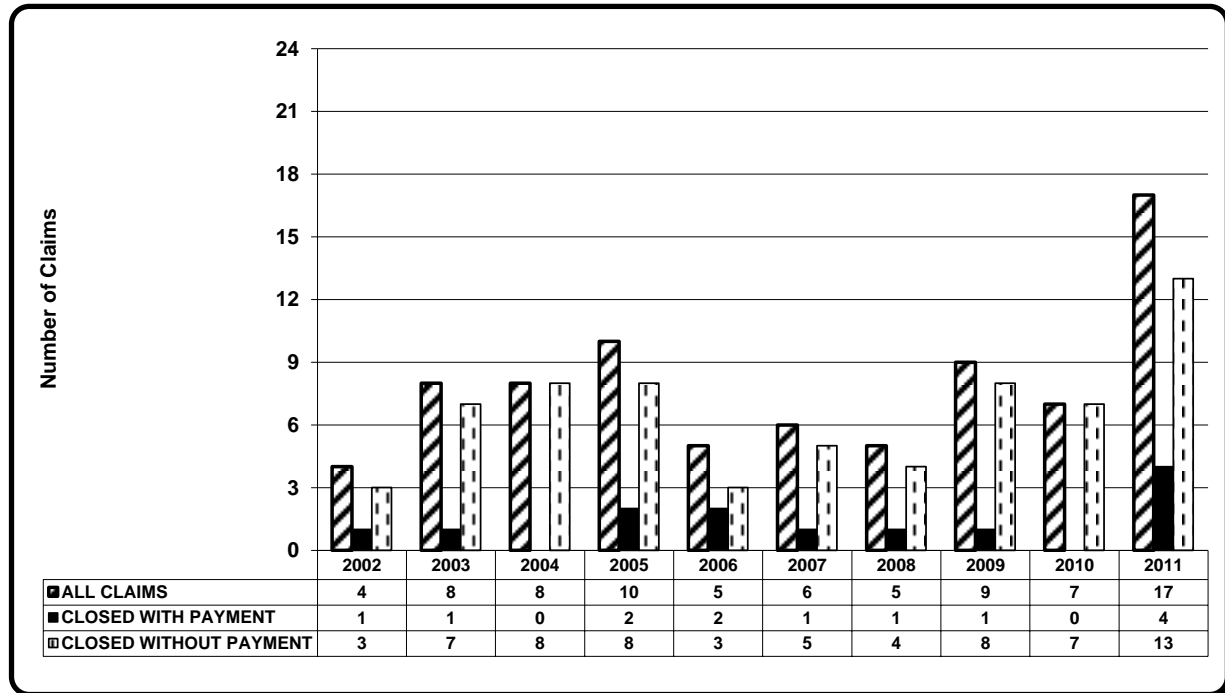


## FRAUD

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

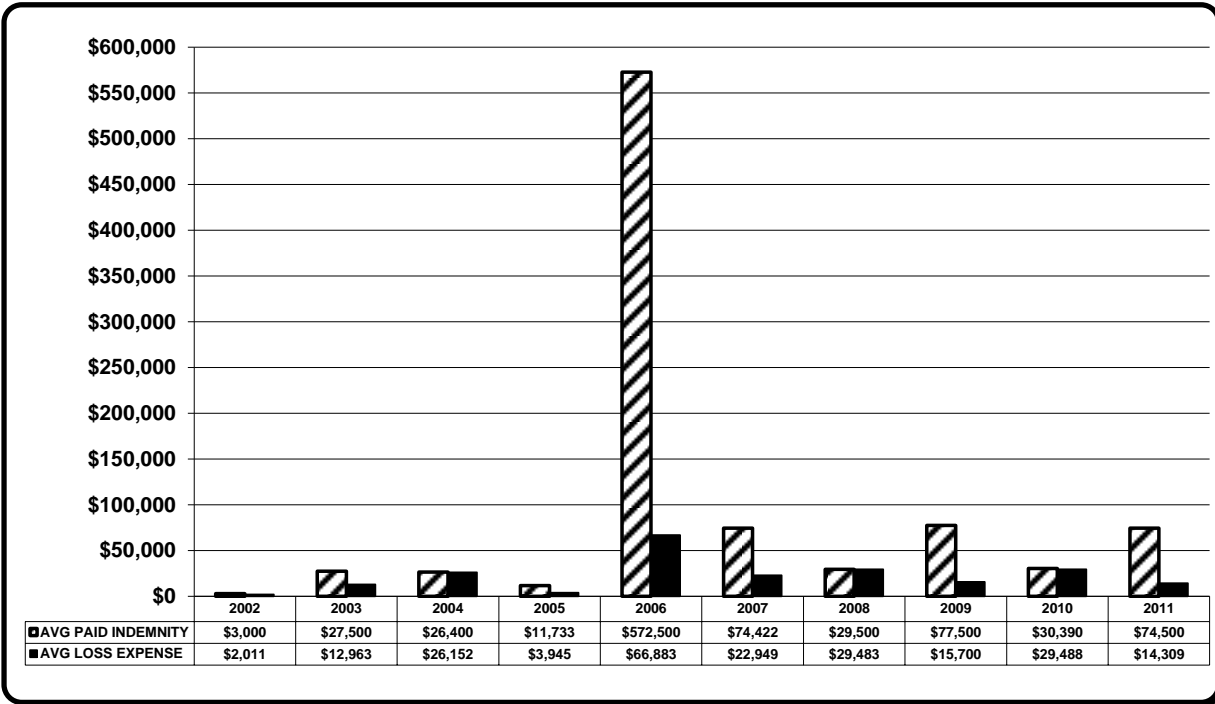


## CLAIM COUNT

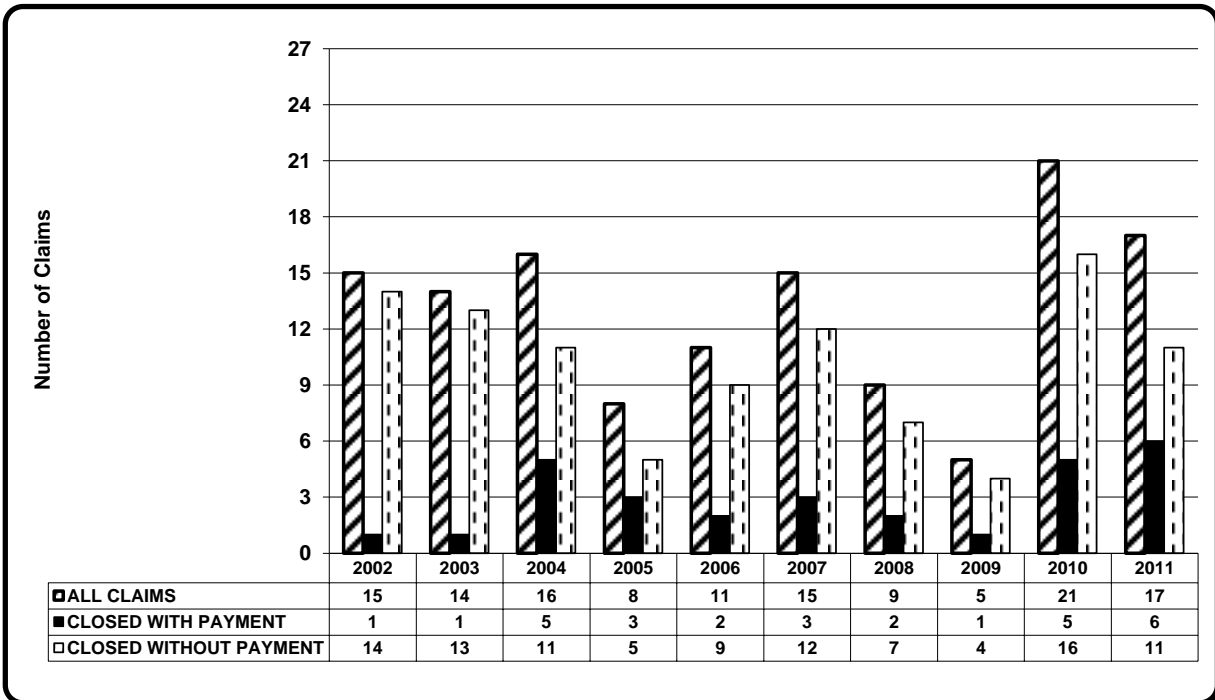


## INADEQUATE INVESTIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

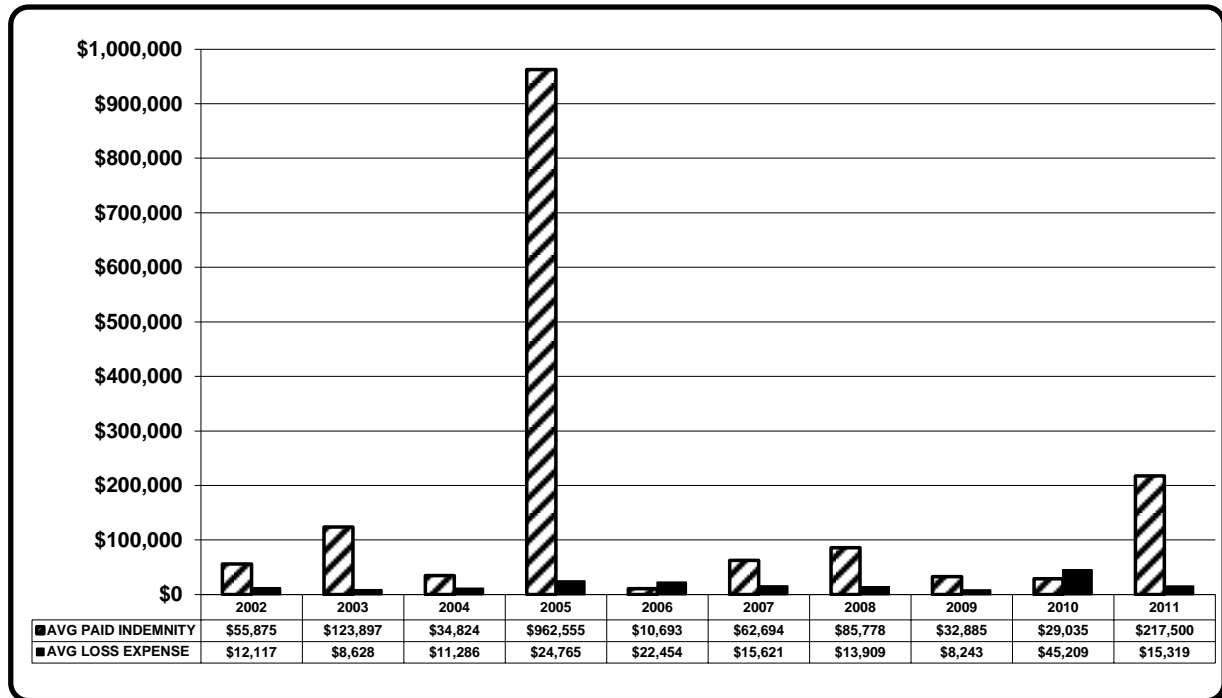


### CLAIM COUNT

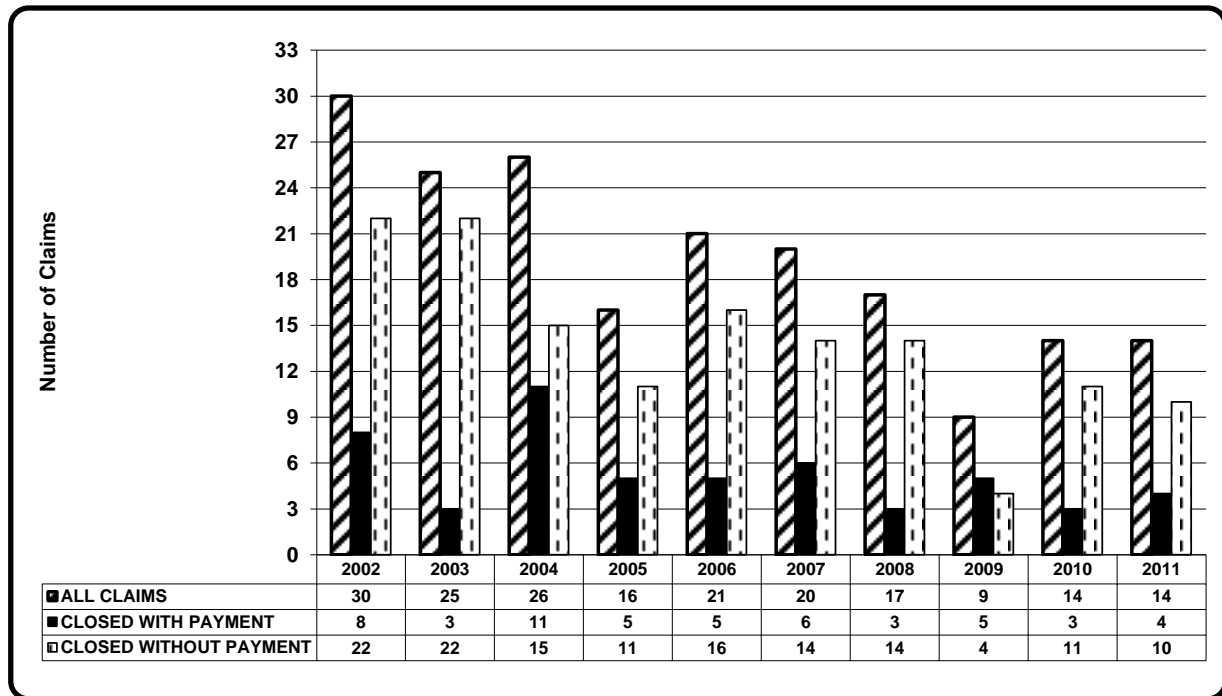


## PROCRASTINATION OR LACK OF FOLLOW-UP

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

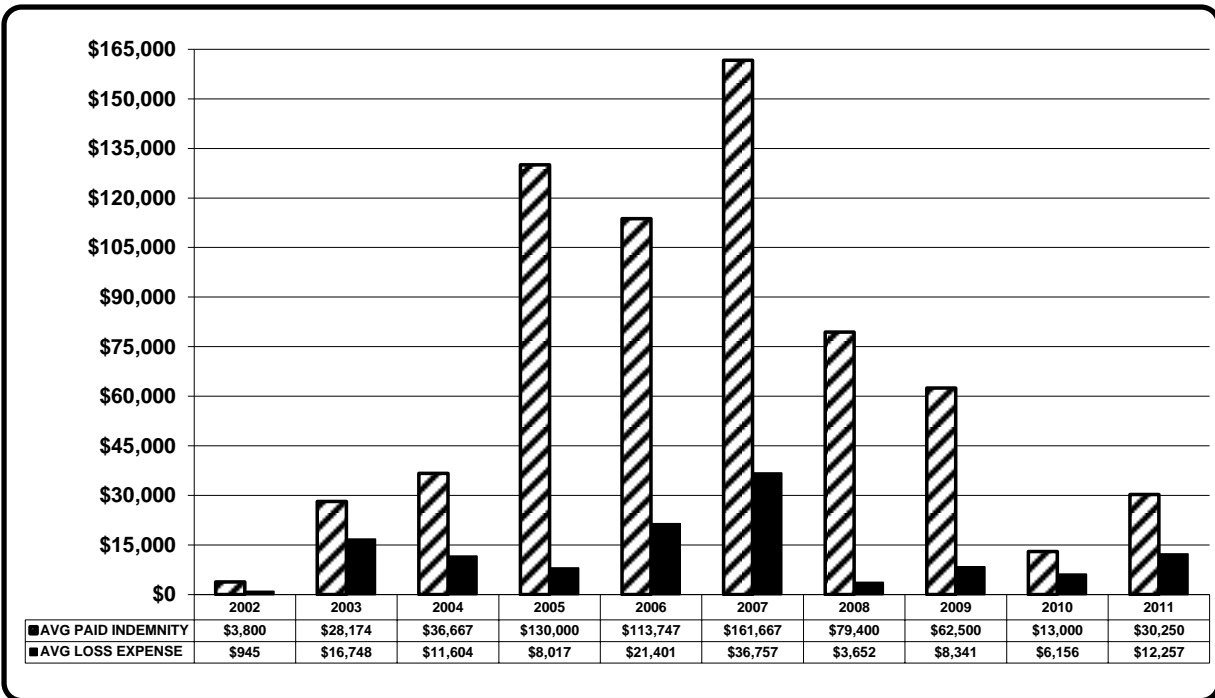


### CLAIM COUNT

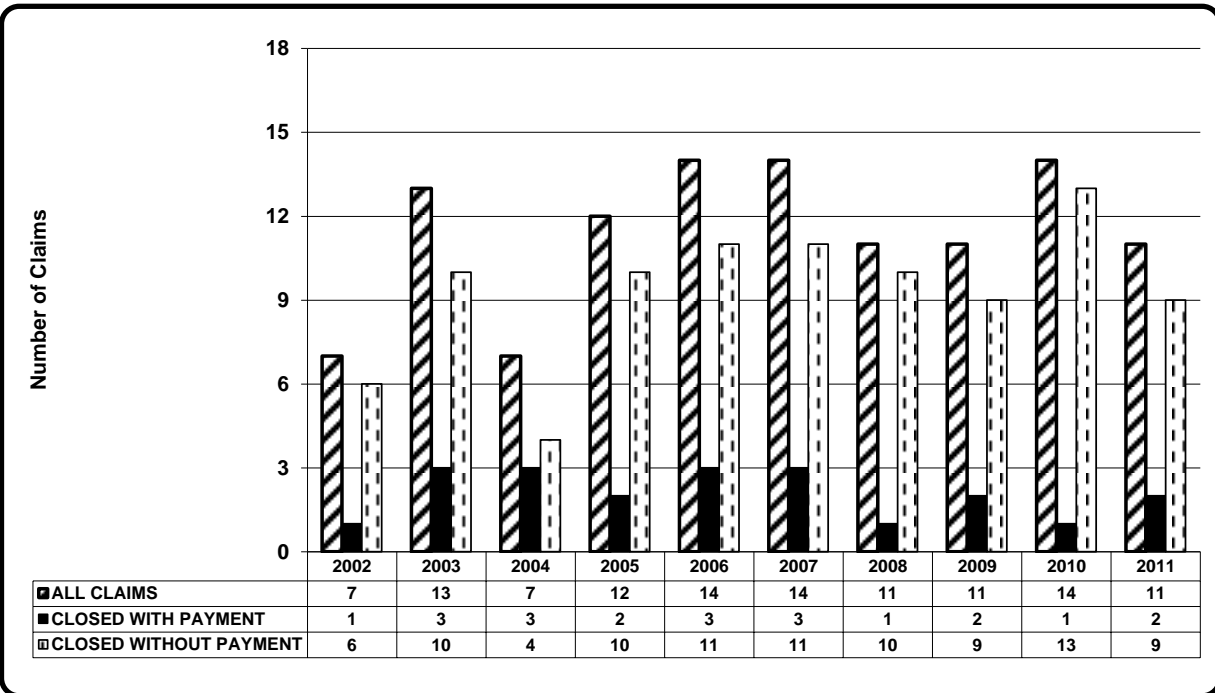


## FAILURE TO FOLLOW CLIENTS INSTRUCTIONS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

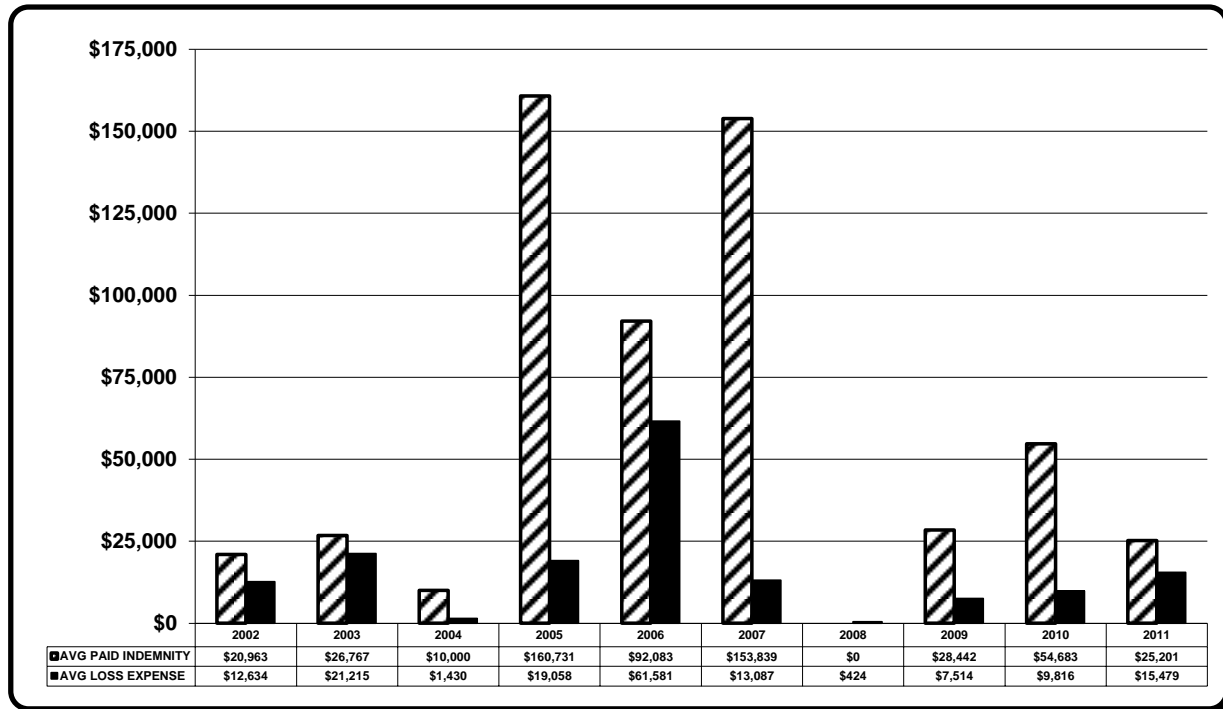


### CLAIM COUNT

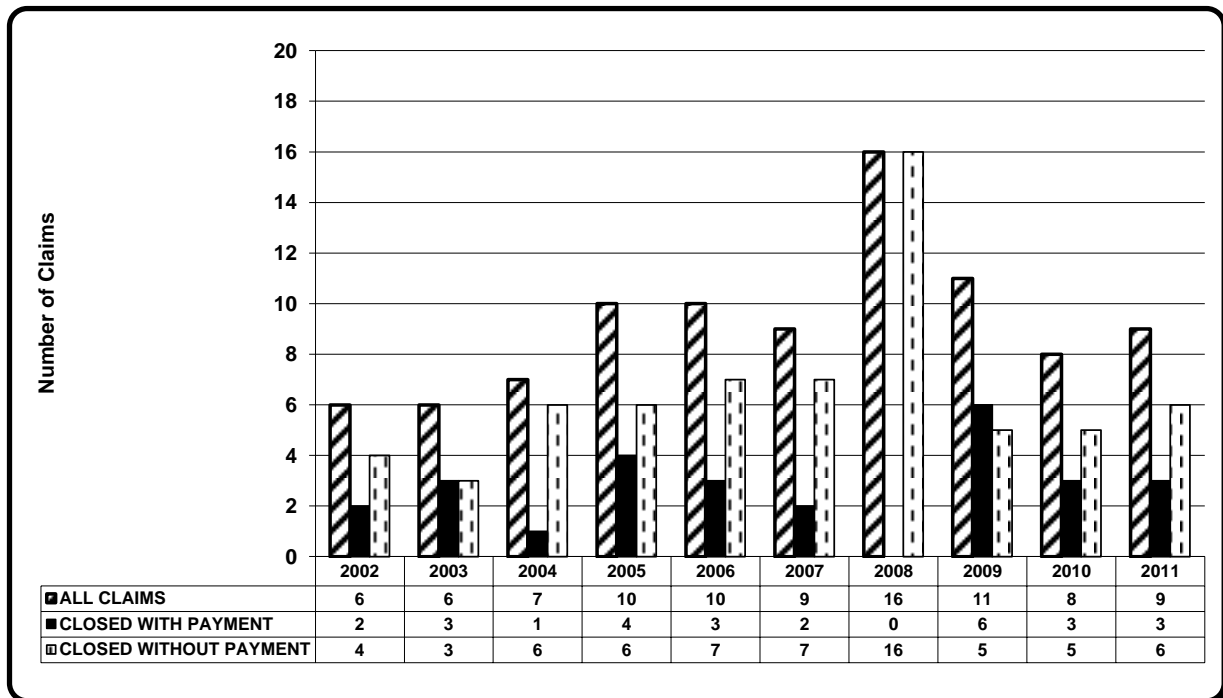


## FAILURE TO FILE DOCUMENTS WITH NO DEADLINE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

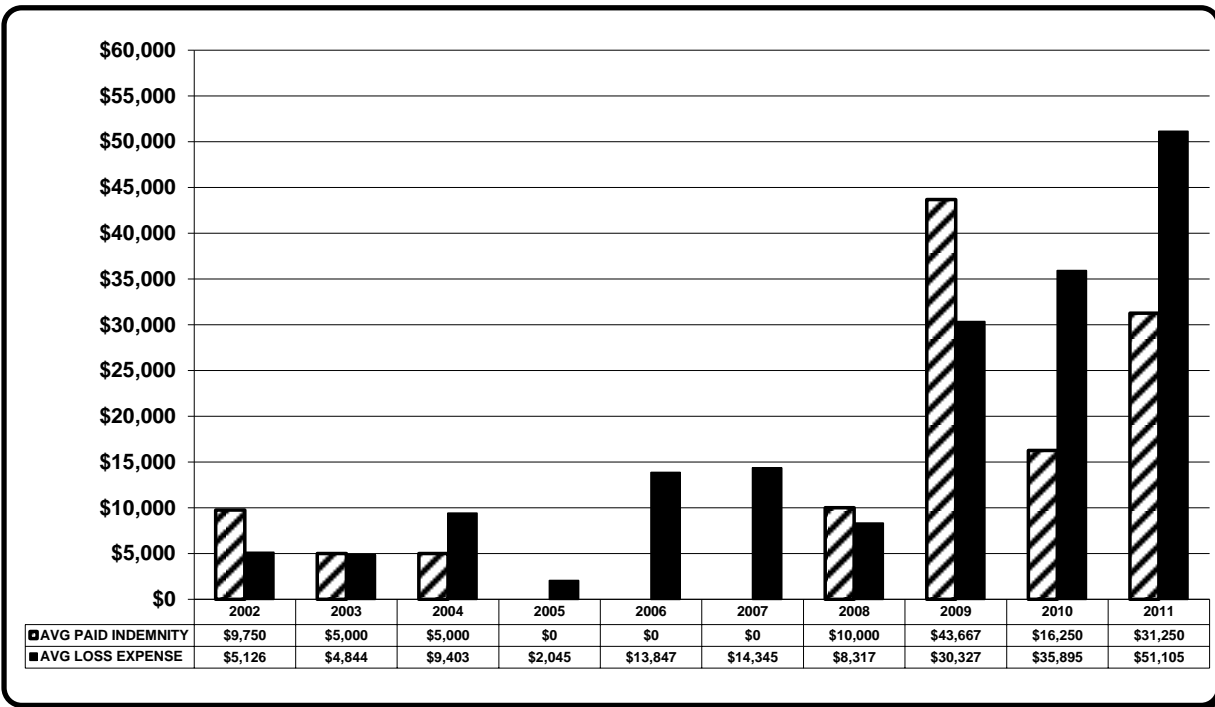


### CLAIM COUNT

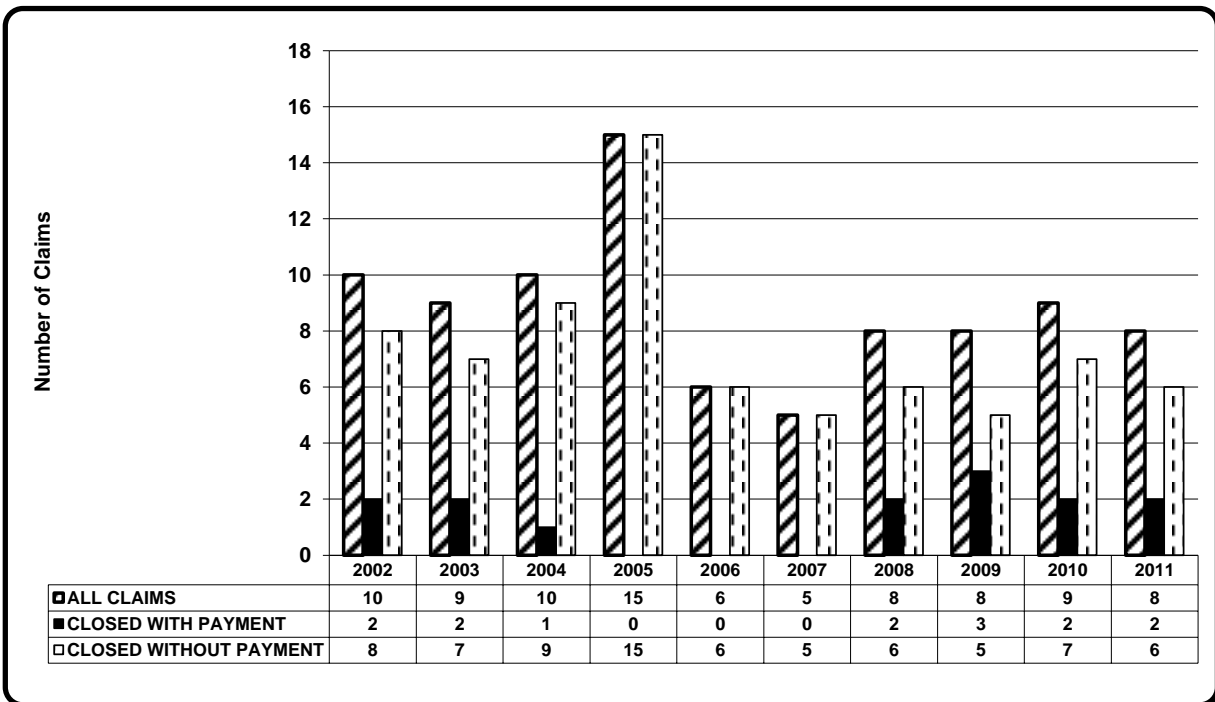


## MALICIOUS PROSECUTION OR ABUSE OF PROCESS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
CLAIM DISPOSITIONS**





# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2002-2011

CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE FILING SUIT OR DEMANDING HEARING	1,038	270	41.86%	\$61,451	\$16,591,757	25.93%	\$1,601
BEFORE TRIAL OR HEARING	927	341	52.87%	\$112,923	\$38,506,819	60.19%	\$29,593
CLAIM OR SUIT ABANDONED	209	0	0.00%	N/A	\$0	0.00%	\$1,280
AFTER APPEAL	73	7	1.09%	\$395,701	\$2,769,907	4.33%	\$88,208
DURING TRIAL OR HEARING	42	6	0.93%	\$117,496	\$704,976	1.10%	\$41,747
AFTER JUDGMENT, BEFORE APPEAL	41	8	1.24%	\$312,902	\$2,503,215	3.91%	\$45,581
AFTER TRIAL OR HEARING, BEFORE JUDGMENT	41	8	1.24%	\$255,766	\$2,046,128	3.20%	\$44,428
DURING APPEAL	19	5	0.78%	\$170,901	\$854,507	1.34%	\$93,582
DURING REVIEW PANEL	10	0	0.00%	N/A	\$0	0.00%	\$2,329
TOTAL	2,400	645	100.00%	\$100,358	\$64,731,132	100.00%	\$17,936

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011

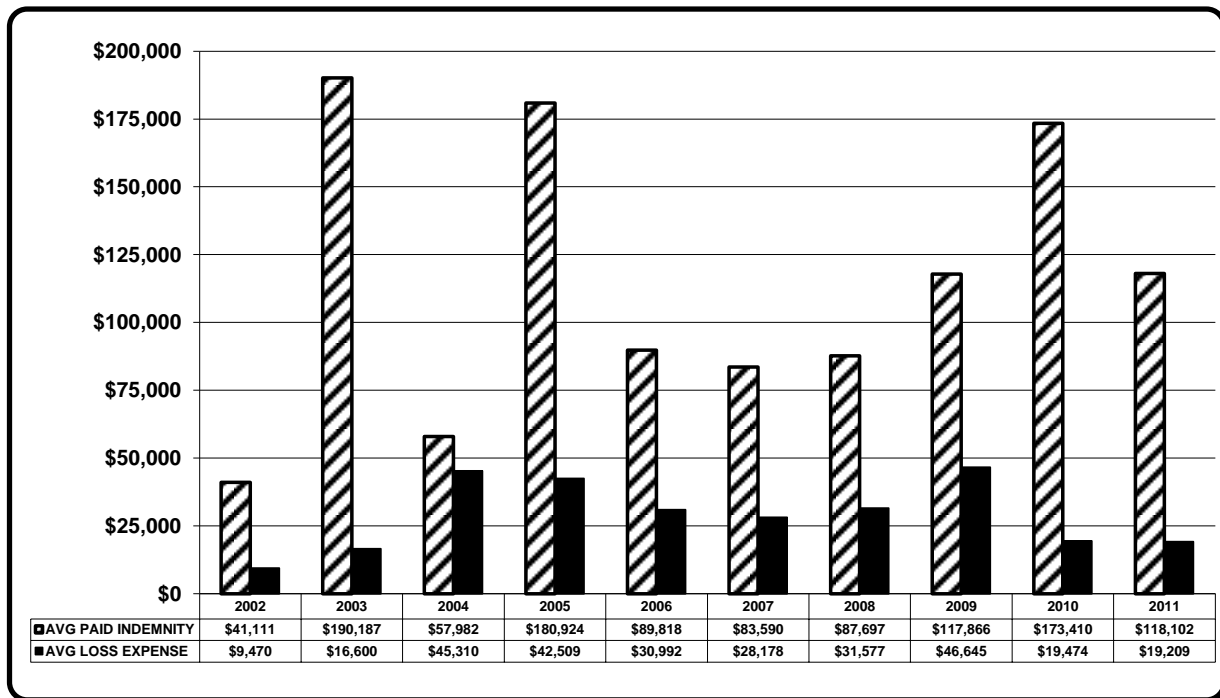
CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE TRIAL OR HEARING	110	41	59.42%	\$118,102	\$4,842,162	70.84%	\$19,209
BEFORE FILING SUIT OR DEMANDING HEARING	92	24	34.78%	\$70,027	\$1,680,643	24.59%	\$3,838
CLAIM OR SUIT ABANDONED	30	0	0.00%	N/A	\$0	0.00%	\$2,432
AFTER APPEAL	5	0	0.00%	N/A	\$0	0.00%	\$124,465
DURING TRIAL OR HEARING	5	1	1.45%	\$50,000	\$50,000	0.73%	\$71,127
AFTER JUDGMENT, BEFORE APPEAL	4	1	1.45%	\$140,785	\$140,785	2.06%	\$29,025
AFTER TRIAL OR HEARING, BEFORE JUDGMENT	4	1	1.45%	\$9,500	\$9,500	0.14%	\$7,001
DURING APPEAL	3	1	1.45%	\$112,000	\$112,000	1.64%	\$138,874
TOTAL	253	69	100.00%	\$99,059	\$6,835,090	100.00%	\$16,117

**TRENDS  
OF THE TOP EIGHT  
CLAIM DISPOSITIONS  
OF 2011**

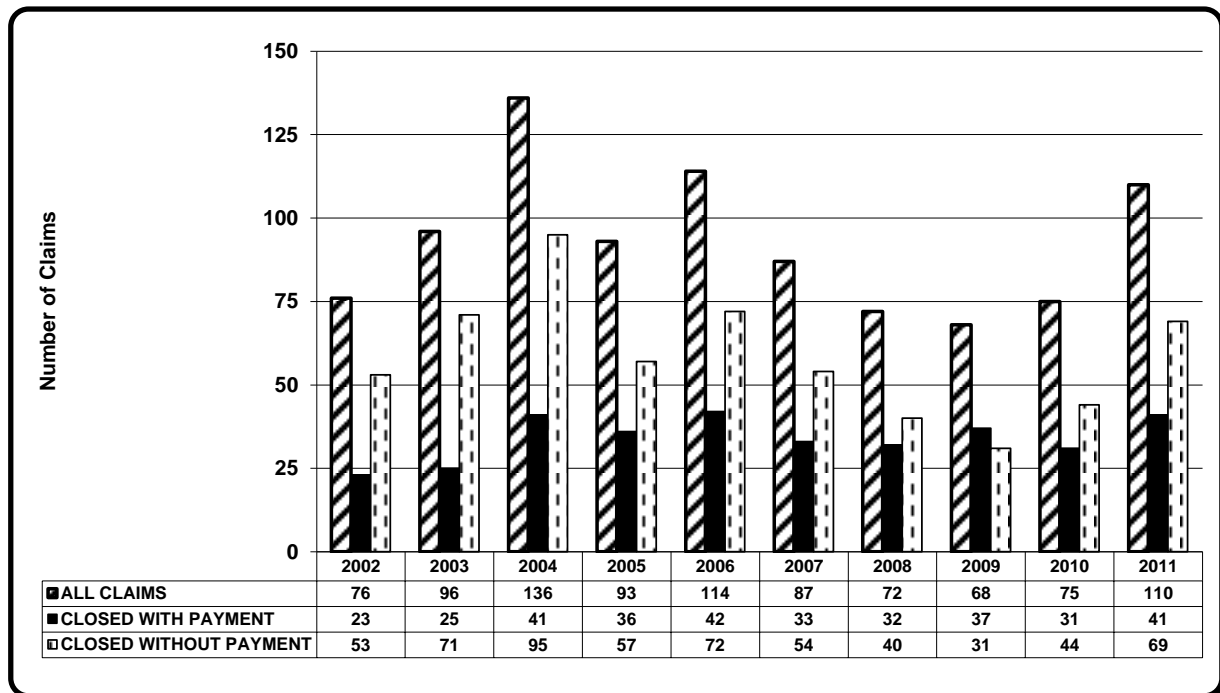


## BEFORE TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

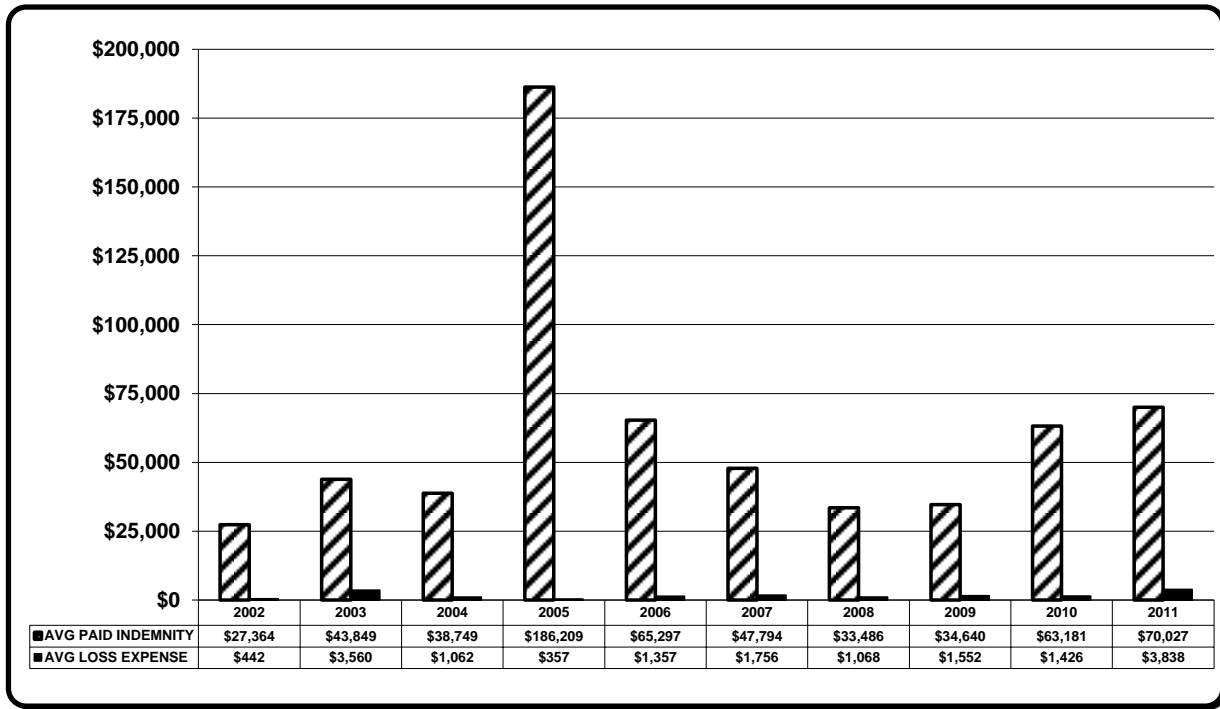


### CLAIM COUNT

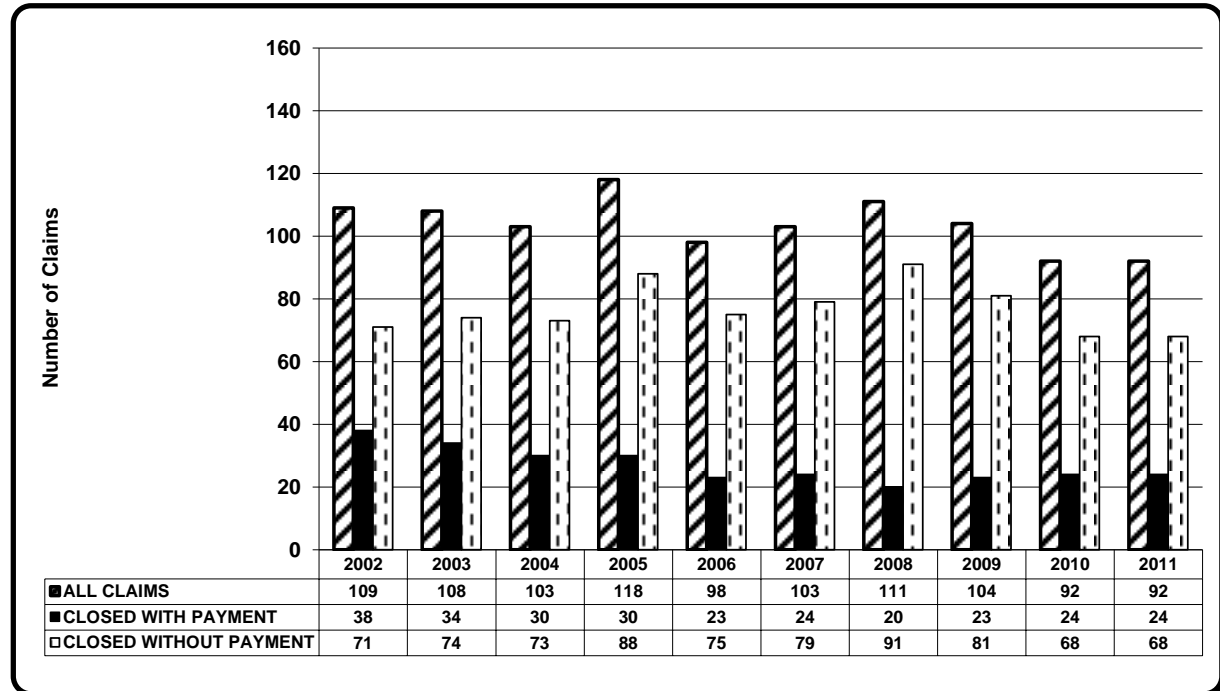


## BEFORE FILING SUIT OR DEMANDING HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

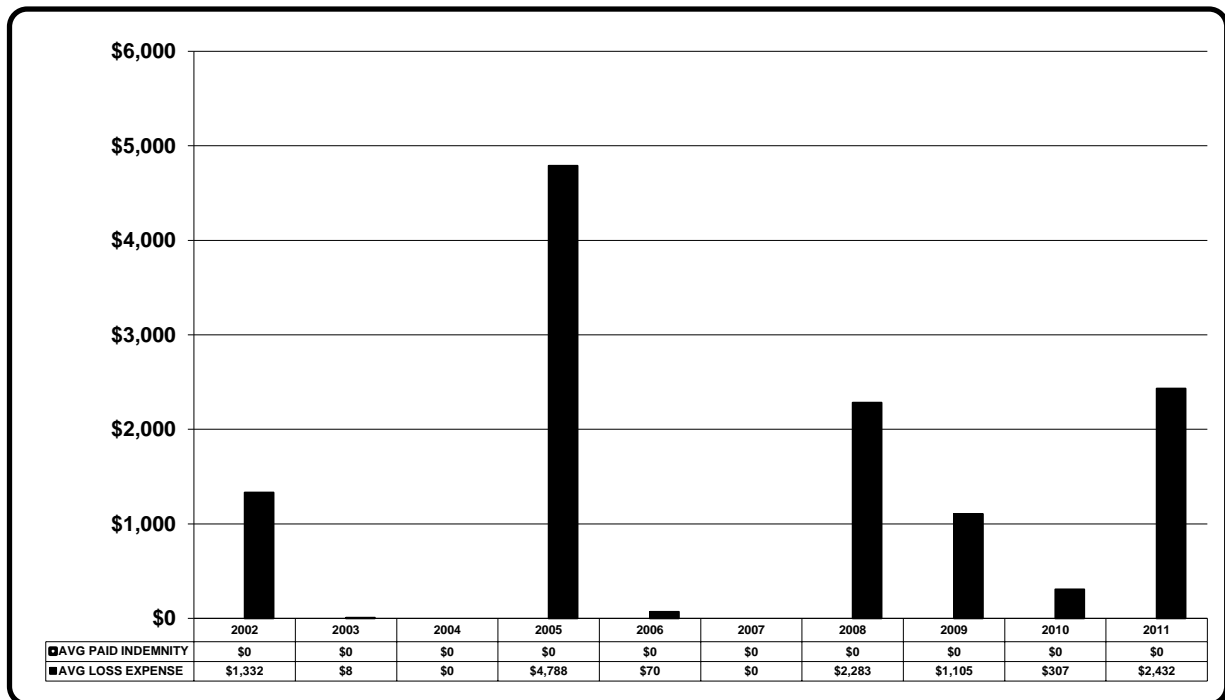


### CLAIM COUNT

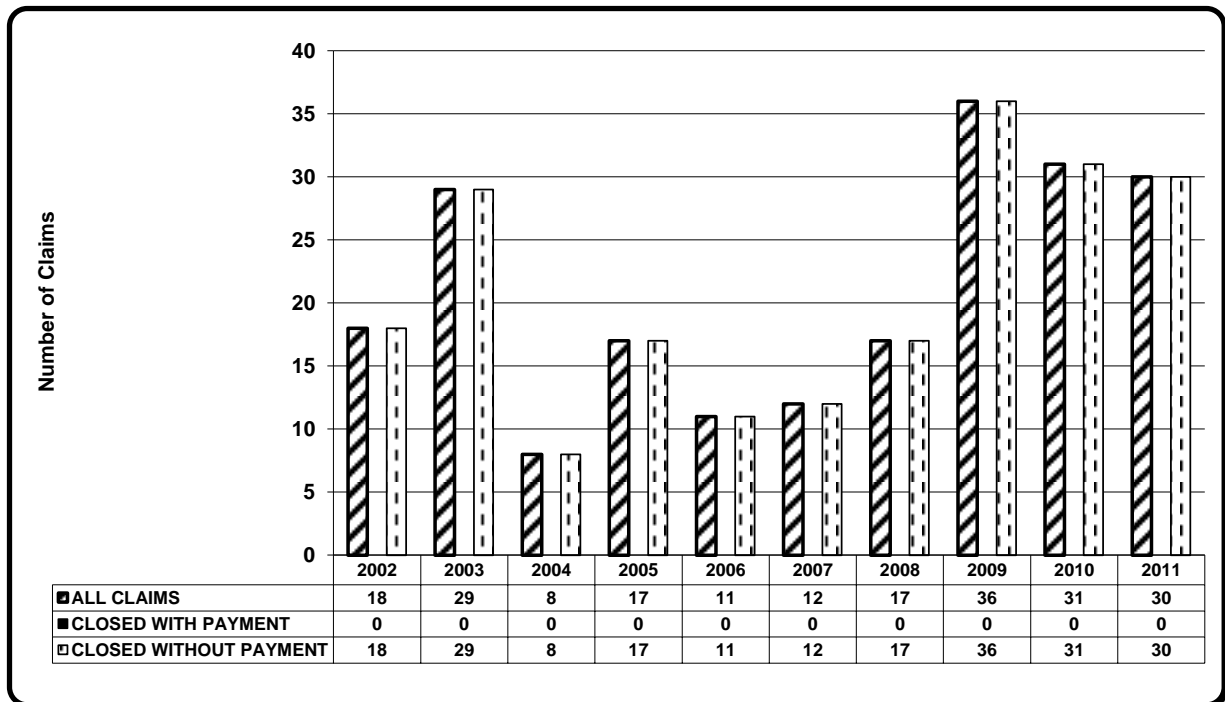


## CLAIM OR SUIT ABANDONED

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

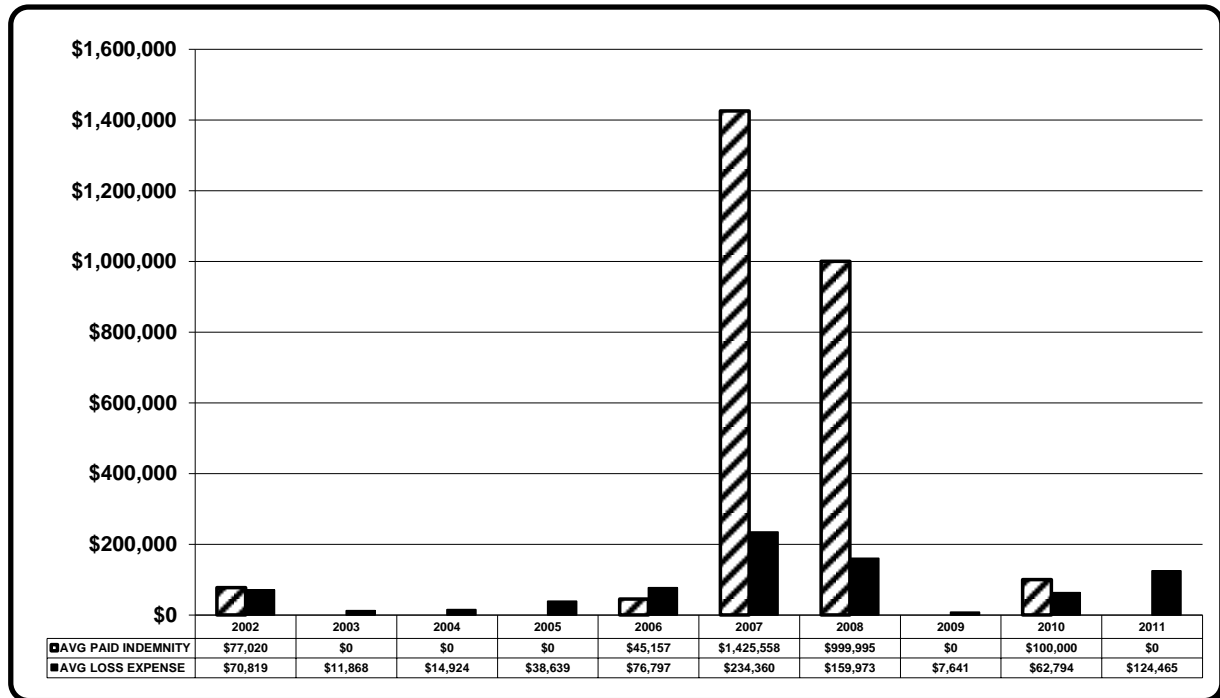


## CLAIM COUNT

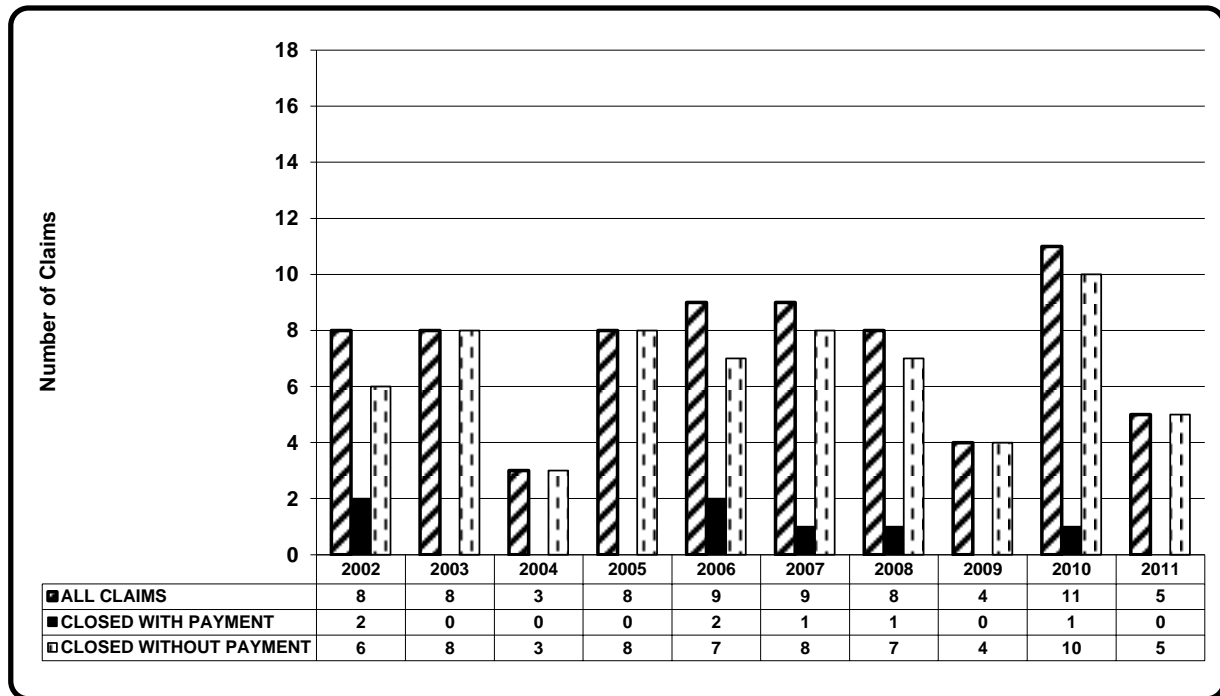


## AFTER APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



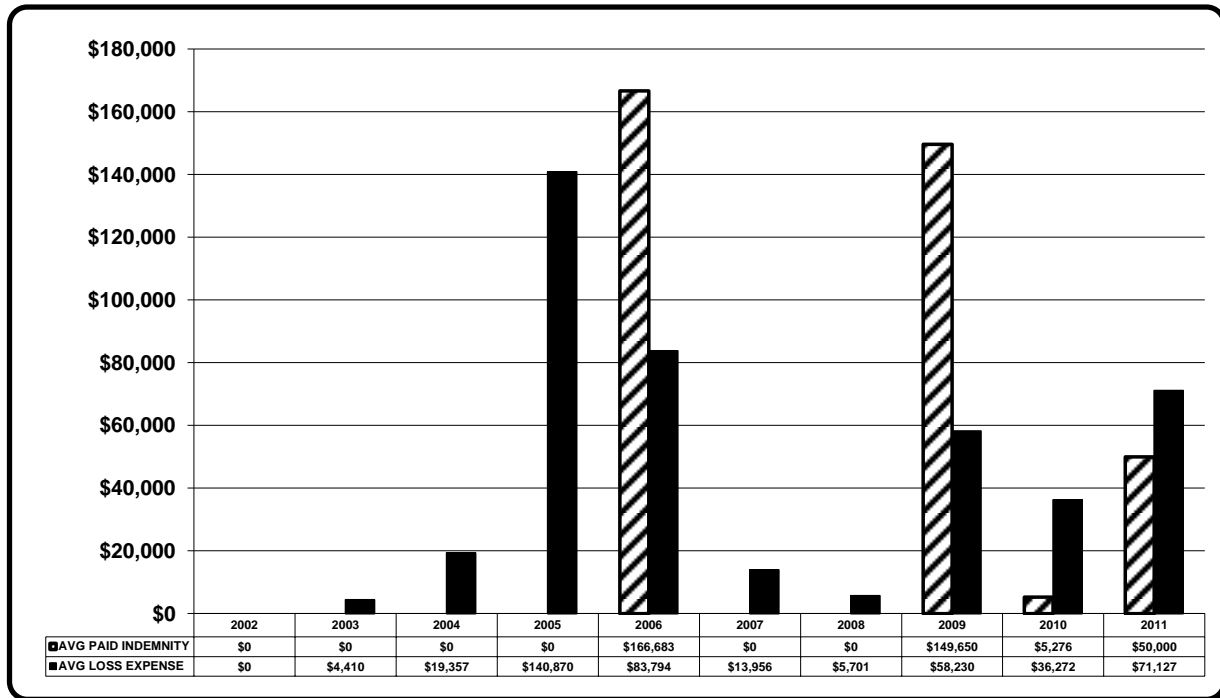
## CLAIM COUNT



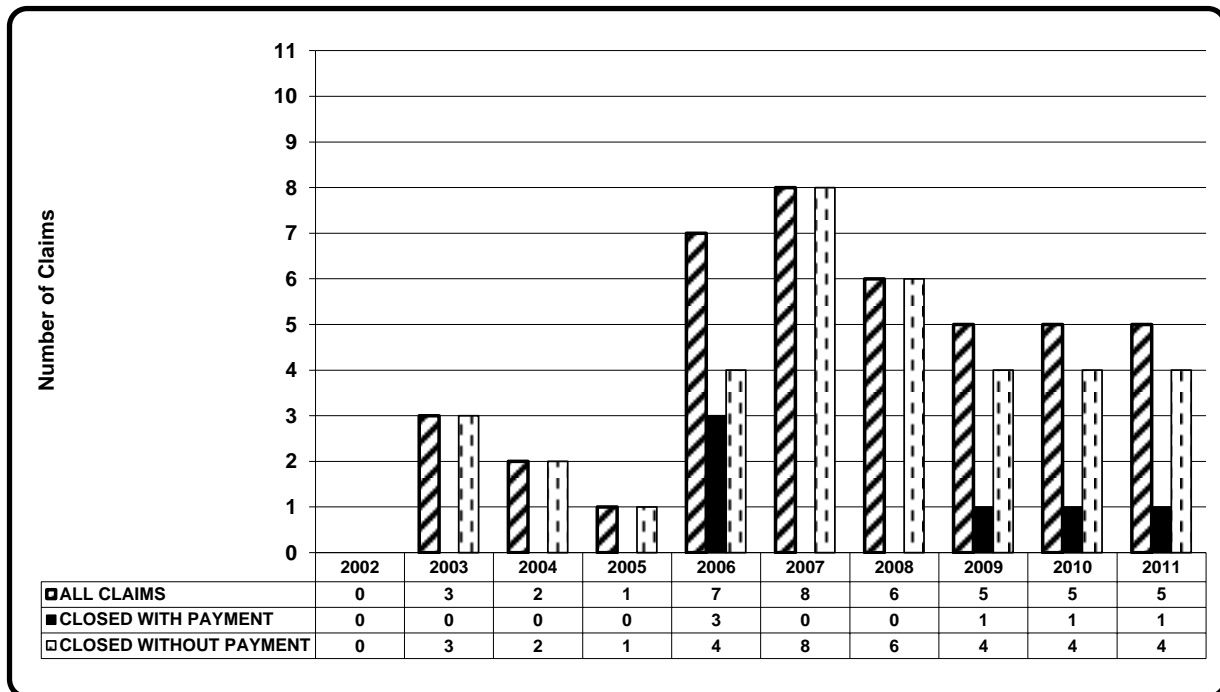


## DURING TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

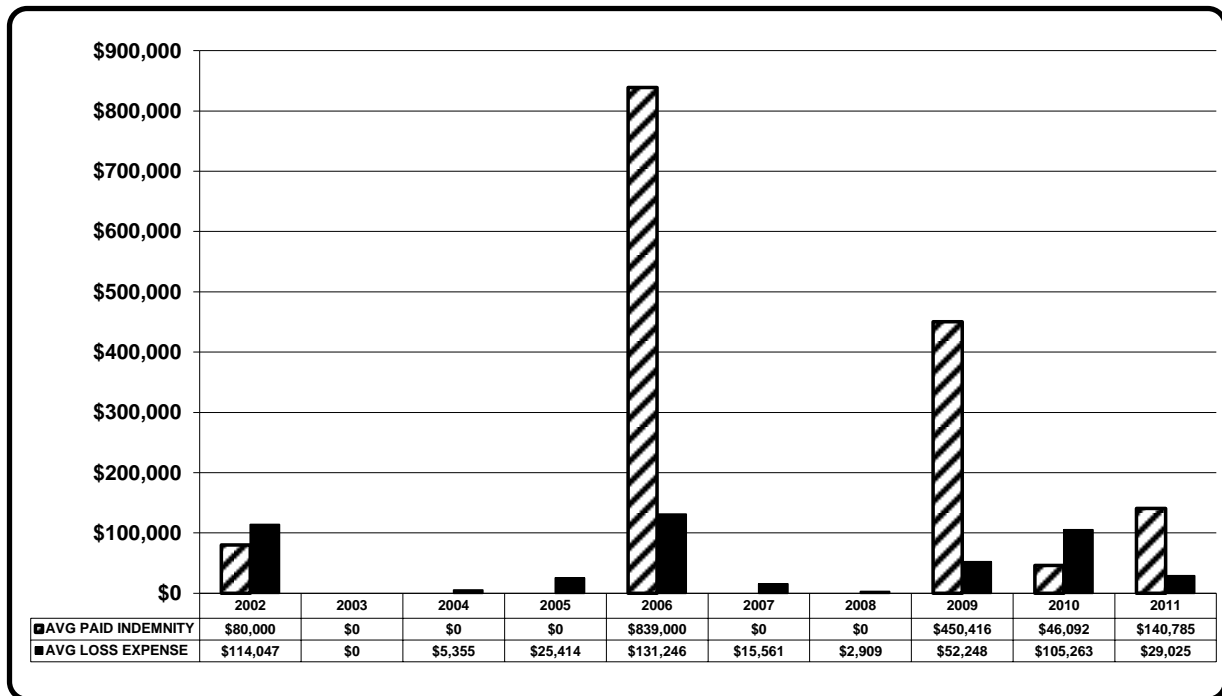


### CLAIM COUNT

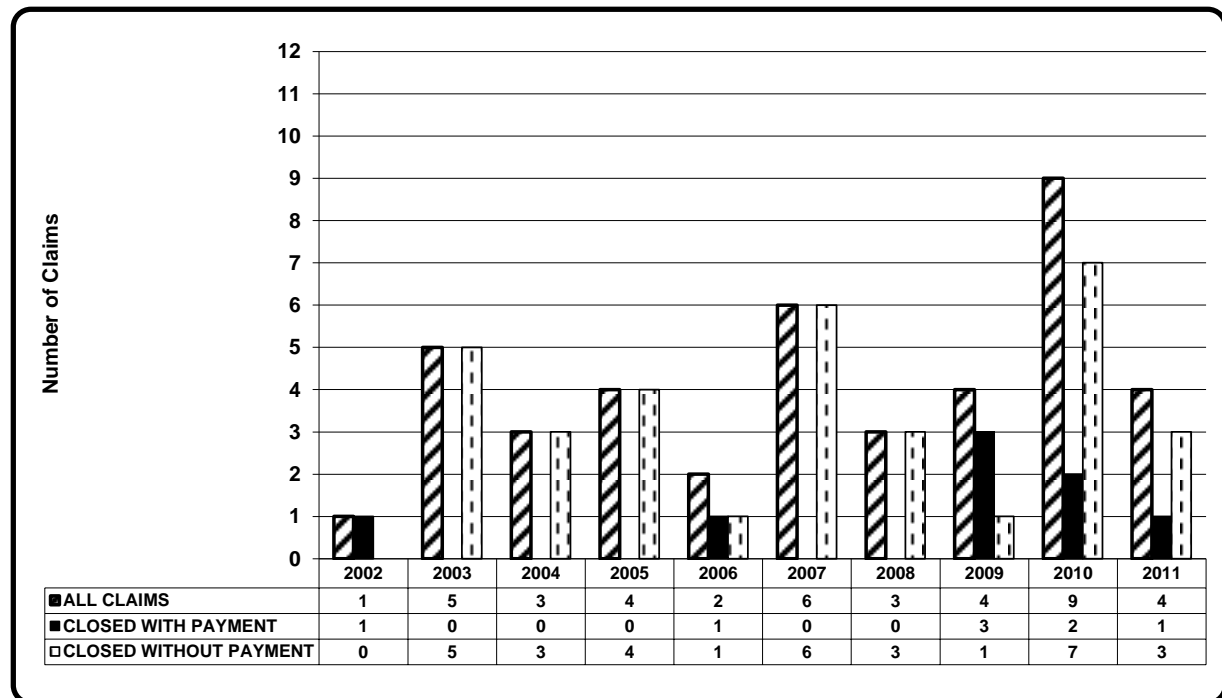


## AFTER JUDGMENT, BEFORE APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

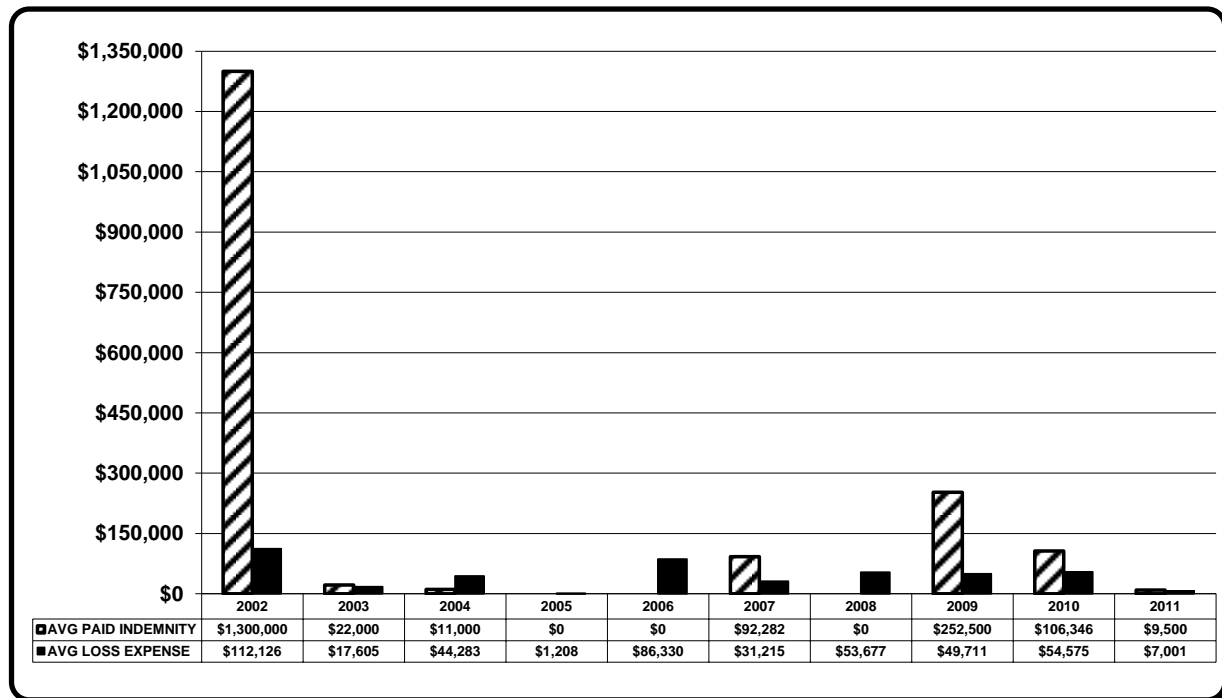


### CLAIM COUNT

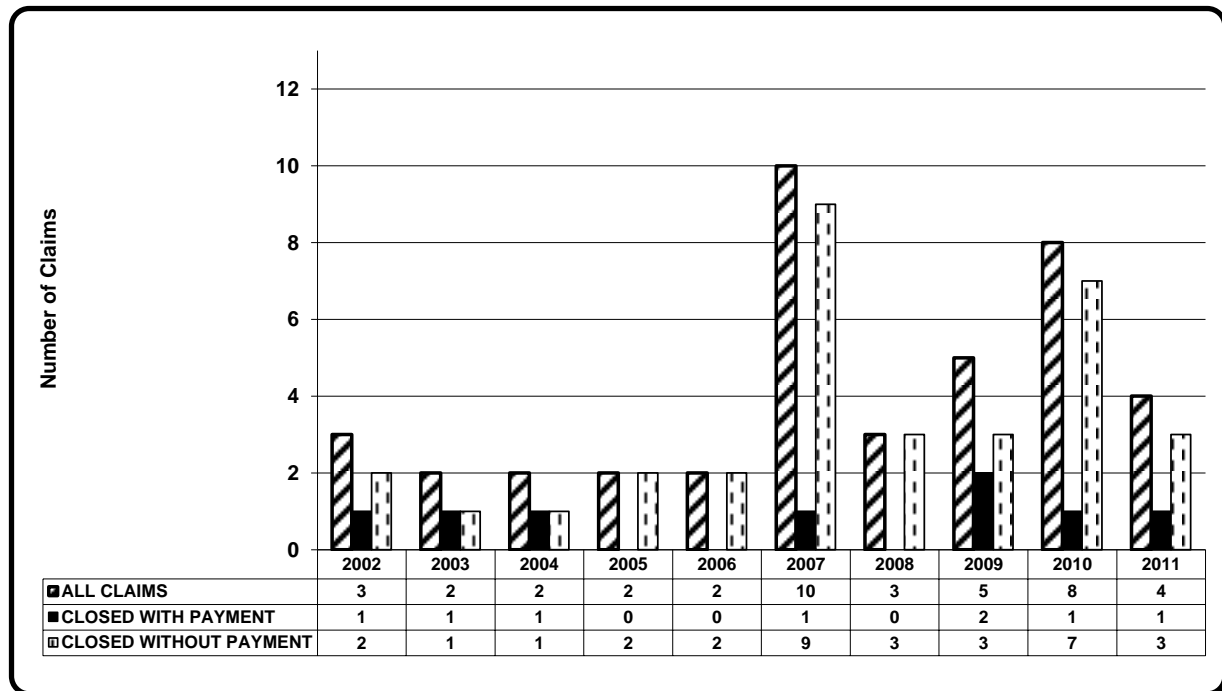


## AFTER TRIAL OR HEARING, BEFORE JUDGMENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

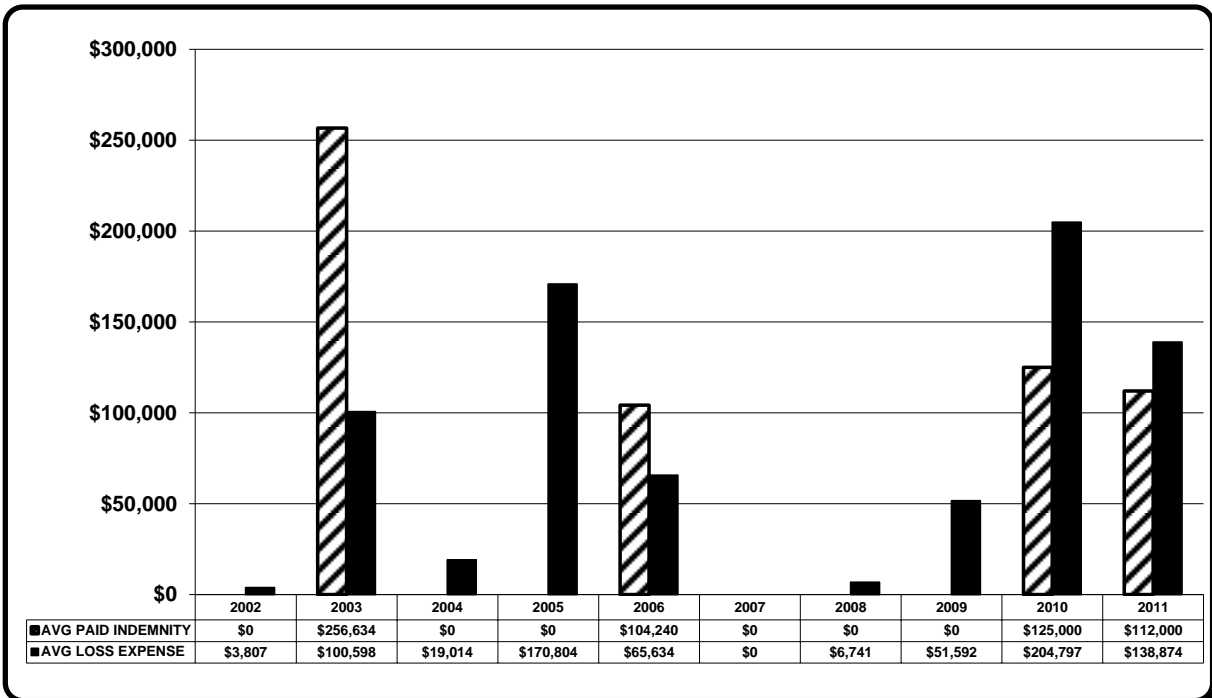


### CLAIM COUNT

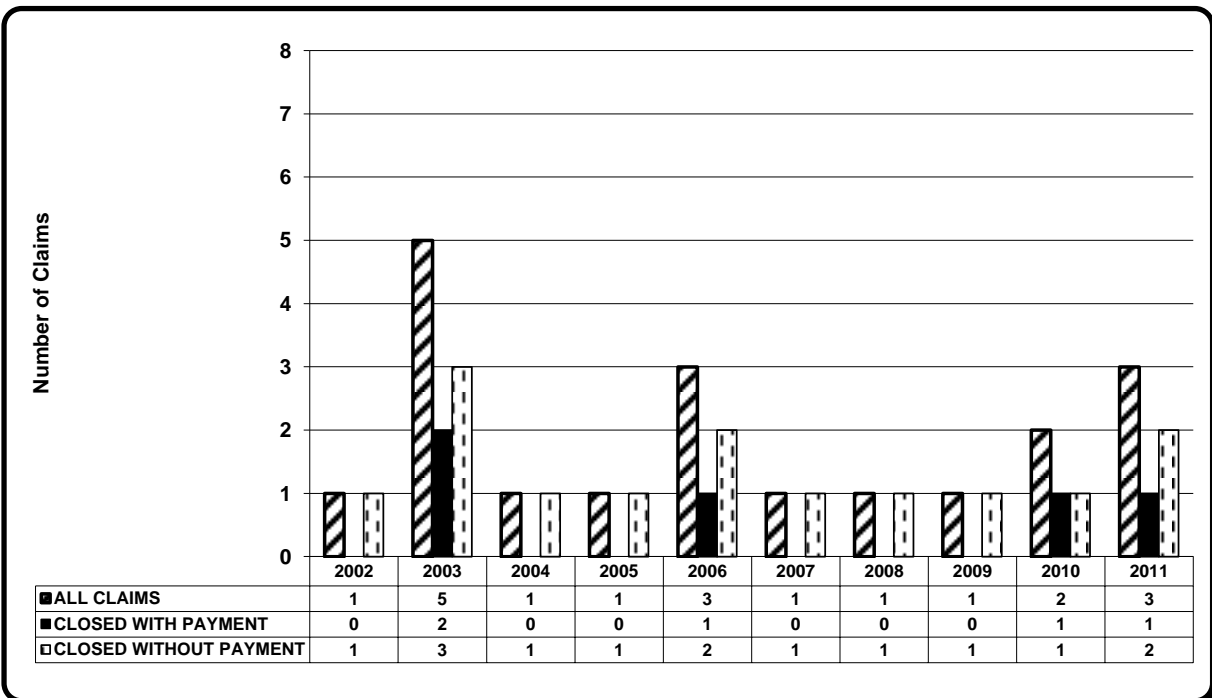


## DURING APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



## CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
YEARS ADMITTED TO PRACTICE**



# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2002-2011

YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	2,264	612	94.88%	\$91,954	\$56,275,750	87.96%	\$17,492
4 TO 10 YEARS	110	26	4.03%	\$274,912	\$7,147,709	11.17%	\$28,522
UNDER 4 YEARS	26	7	1.09%	\$79,121	\$553,850	0.87%	\$11,798
TOTAL	2,400	645	100.00%	\$99,190	\$63,977,309	100.00%	\$17,936

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011**

YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	243	66	95.65%	\$97,350	\$6,425,090	94.00%	\$16,495
4 TO 10 YEARS	9	3	4.35%	\$136,667	\$410,000	6.00%	\$5,396
UNDER 4 YEARS	1	0	0.00%	N/A	\$0	0.00%	\$20,750
TOTAL	253	69	100.00%	\$99,059	\$6,835,090	100.00%	\$16,117

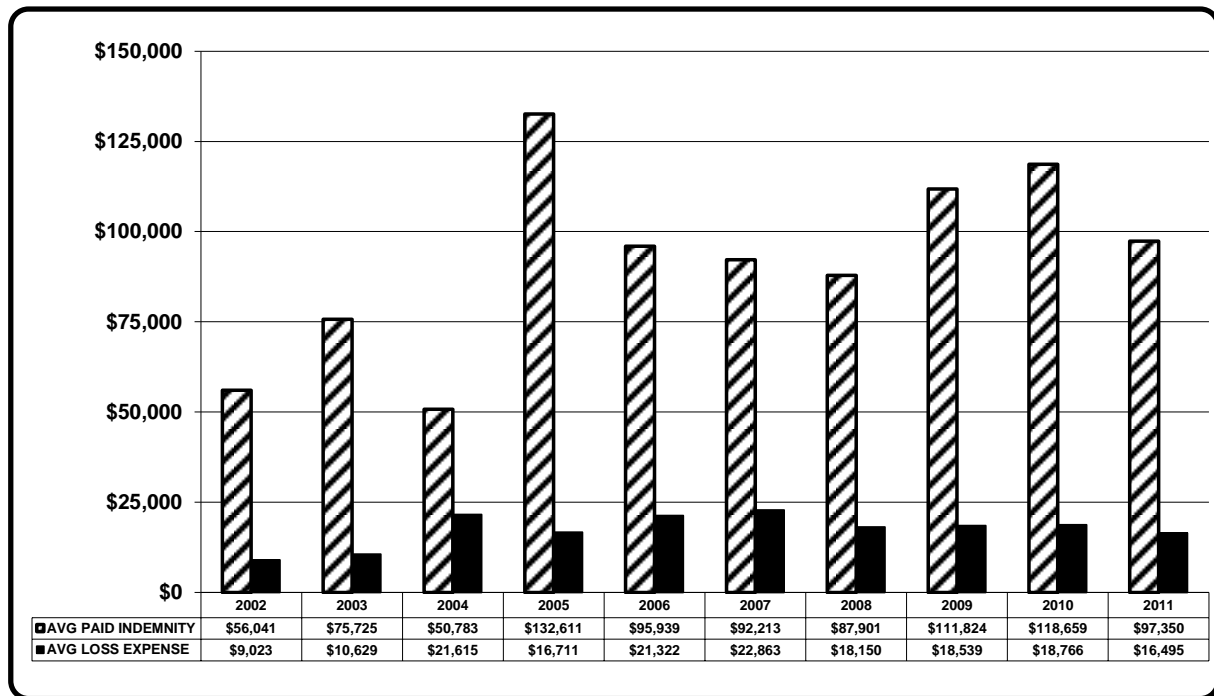


**TRENDS  
OF  
YEARS ADMITTED TO PRACTICE  
FOR 2011**

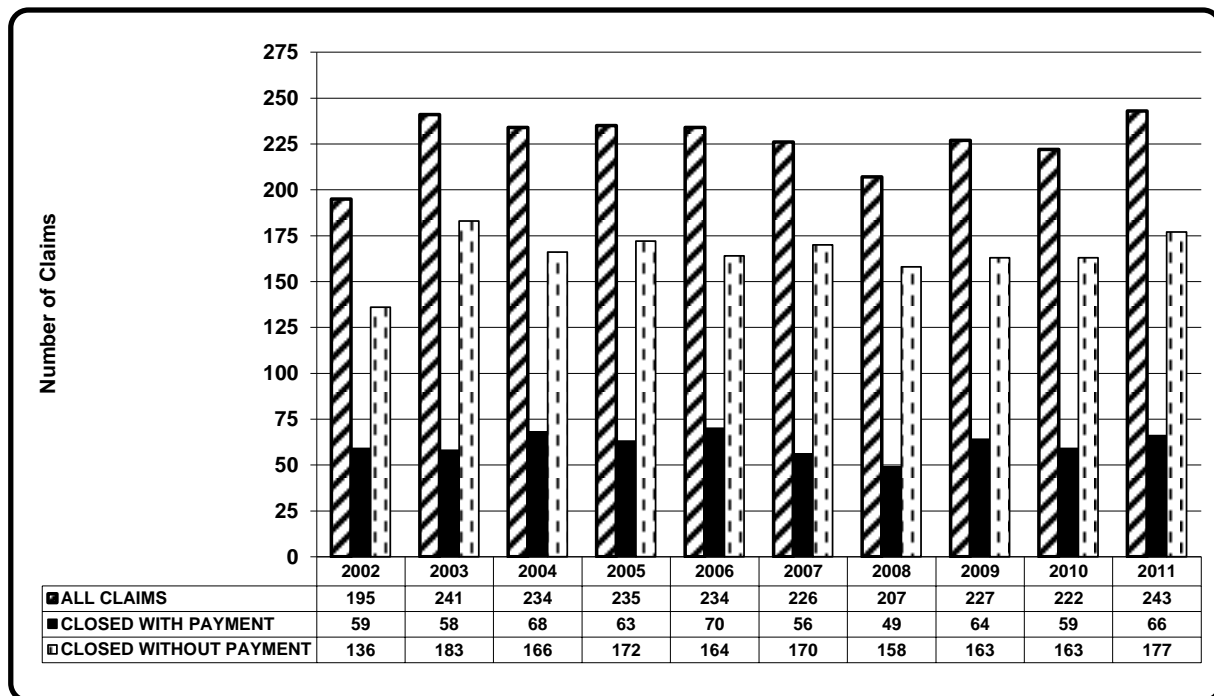


## OVER 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

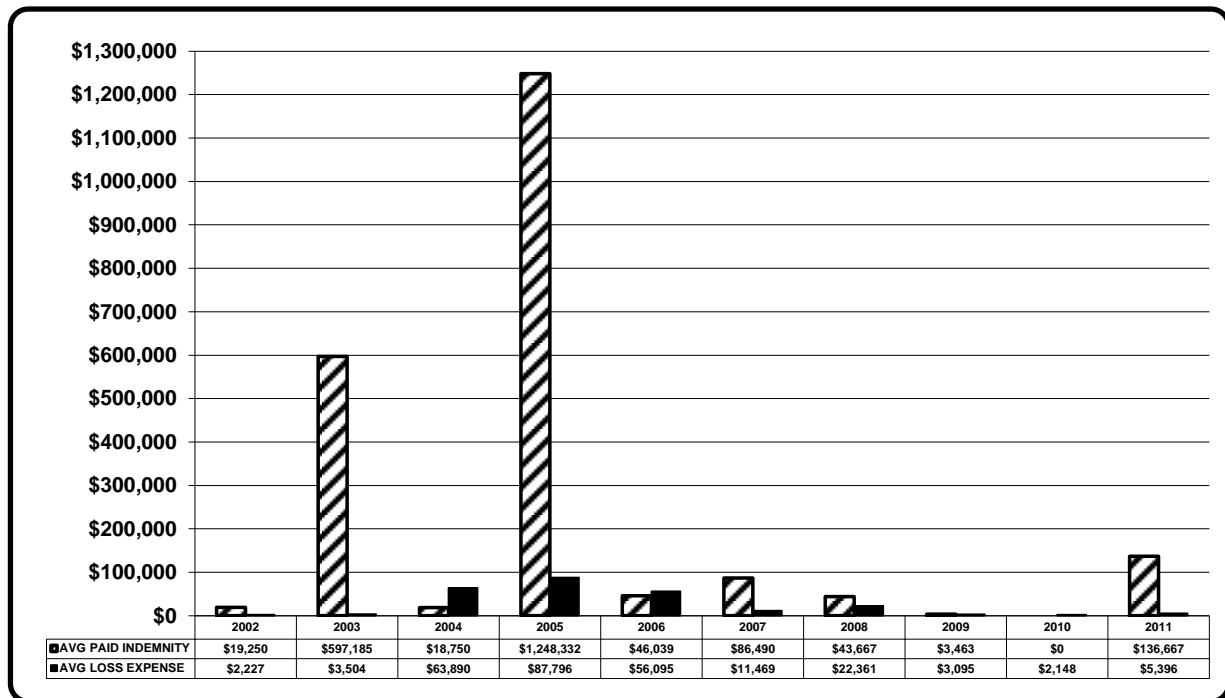


### CLAIM COUNT

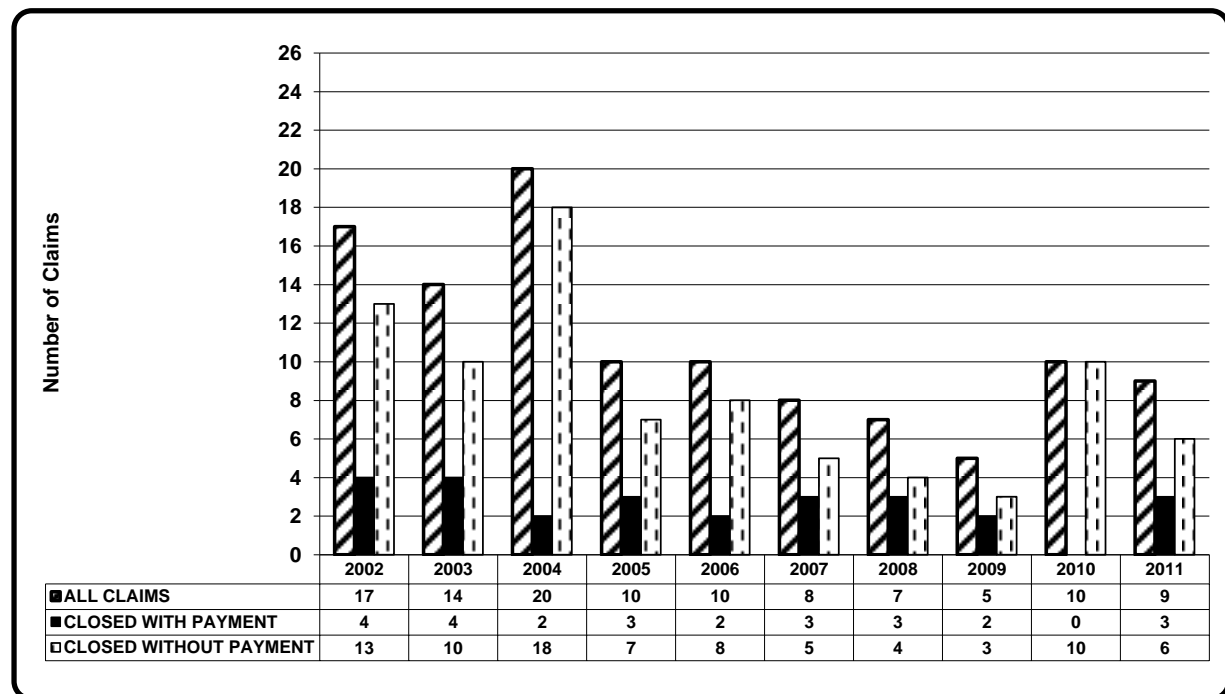


## 4 TO 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

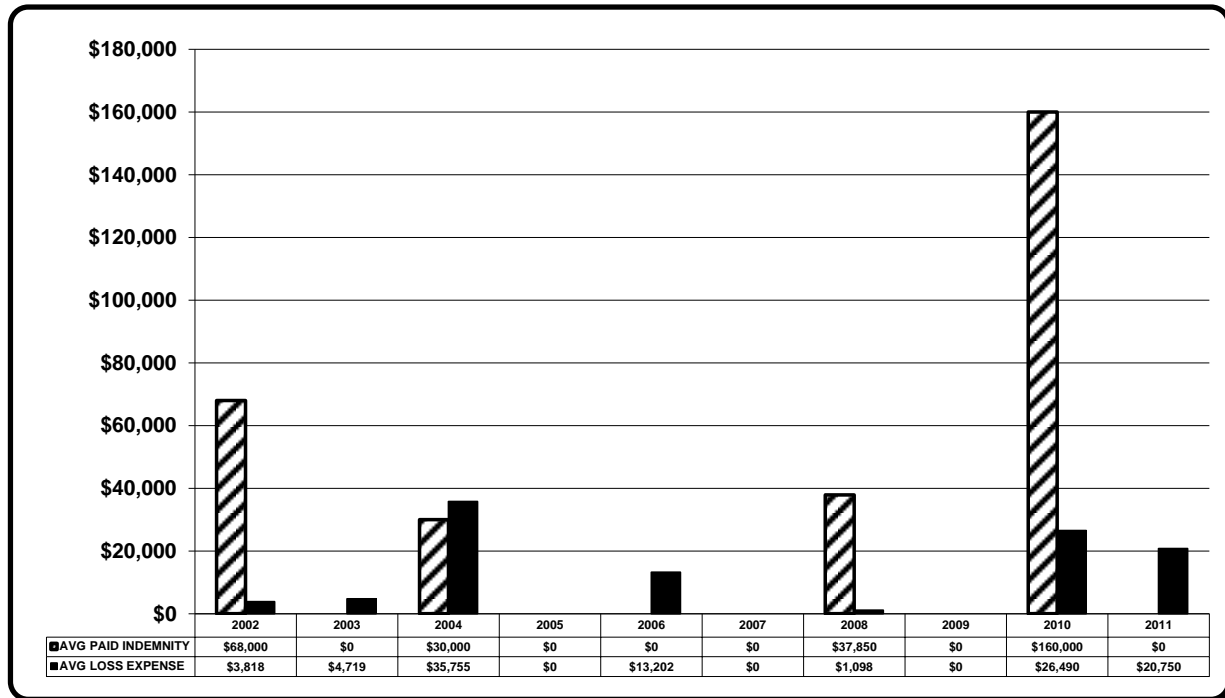


### CLAIM COUNT

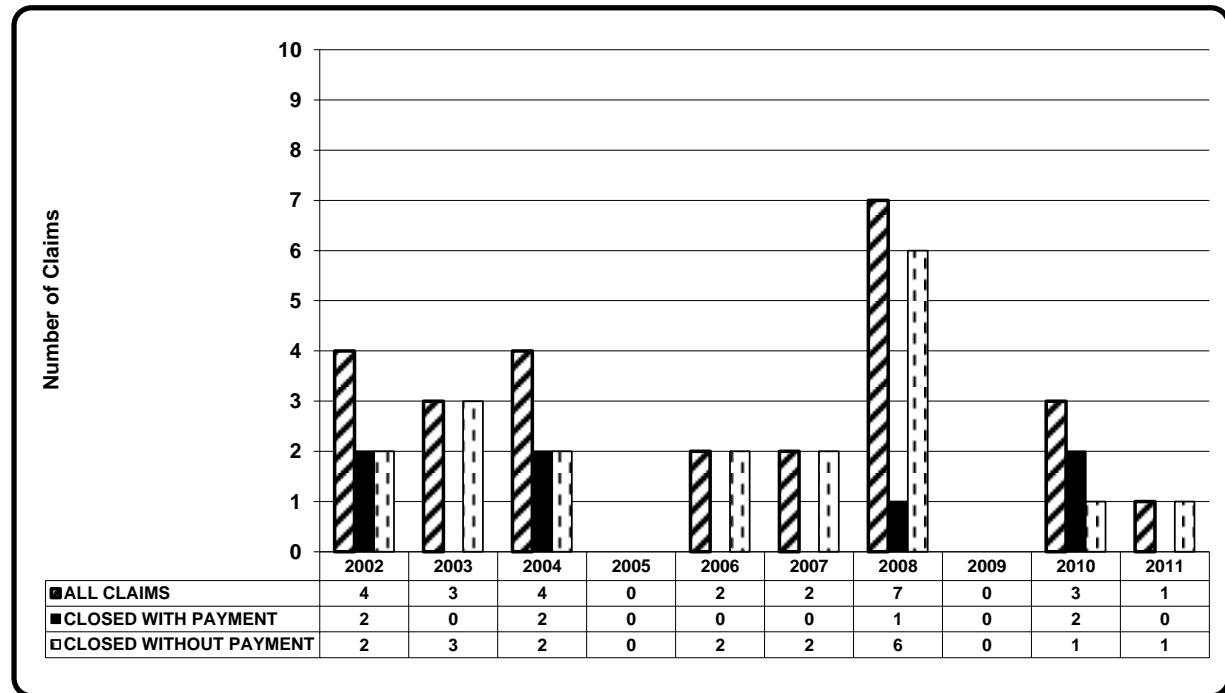


## UNDER 4 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT





**TEN YEAR SUMMARY  
&  
2011 SUMMARY  
BY  
INSURED/CLAIMANT RELATIONSHIP**





# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2002-2011**

INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	1,866	566	87.75%	\$97,018	\$54,912,208	85.83%	\$19,751
NON-CLIENT	525	76	11.78%	\$58,922	\$4,478,101	7.00%	\$10,468
FREE LEGAL SERVICE	6	1	0.16%	\$12,000	\$12,000	0.02%	\$102,097
MEMBER PRE-PAID LEGAL PLAN	3	2	0.31%	\$2,287,500	\$4,575,000	7.15%	\$27,795
TOTAL	2,400	645	100.00%	\$99,190	\$63,977,309	100.00%	\$17,936

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2011**

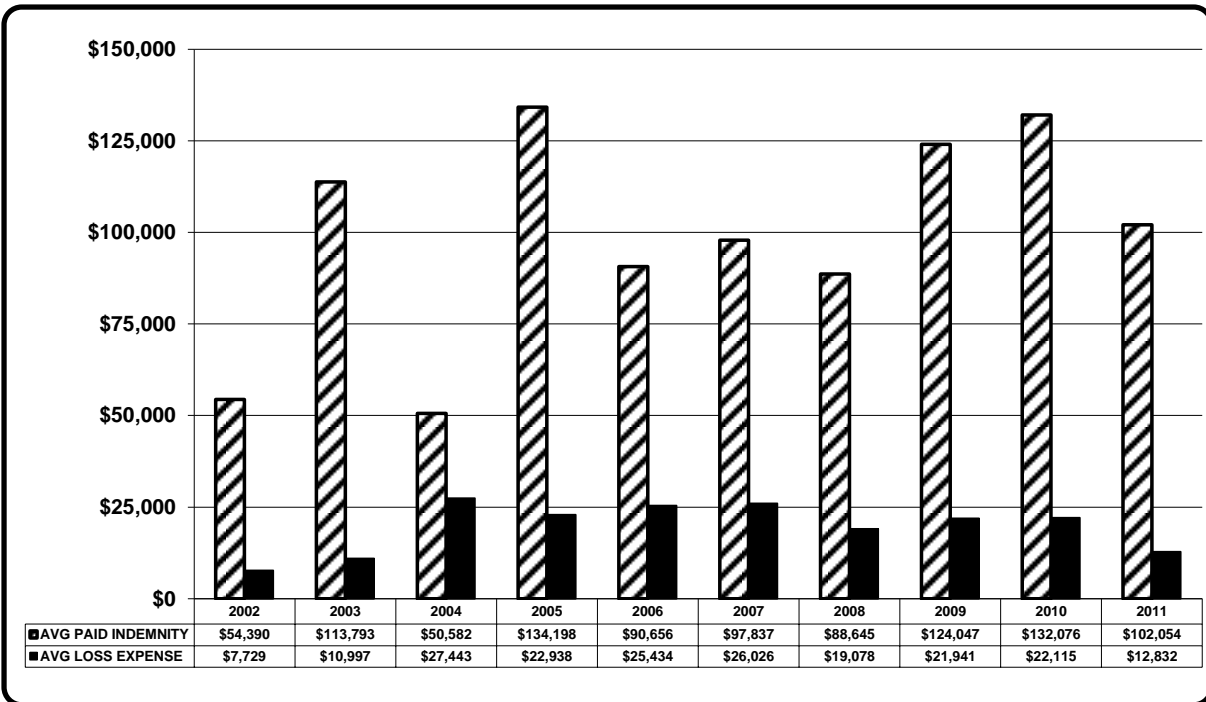
INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	172	53	76.81%	\$102,054	\$5,408,881	79.13%	\$12,832
NON-CLIENT	80	16	23.19%	\$89,138	\$1,426,209	20.87%	\$15,976
FREE LEGAL SERVICE	1	0	0.00%	N/A	\$0	0.00%	\$592,410
<b>TOTAL</b>	<b>253</b>	<b>69</b>	<b>100.00%</b>	<b>\$99,059</b>	<b>\$6,835,090</b>	<b>100.00%</b>	<b>\$16,117</b>

**TRENDS  
OF  
INSURED/CLAIMANT  
RELATIONSHIP  
FOR 2011**

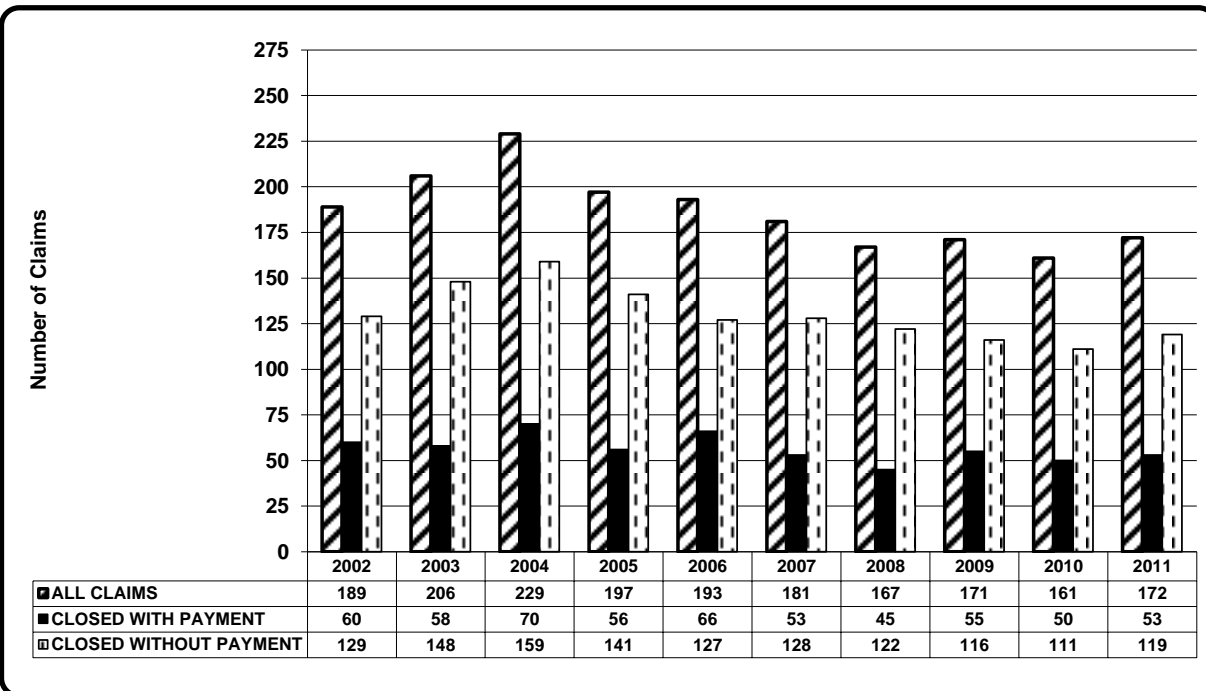


## CLIENT OTHER THAN FREE LEGAL SERVICE OR MEMBER OF PRE-PAID LEGAL PLAN

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

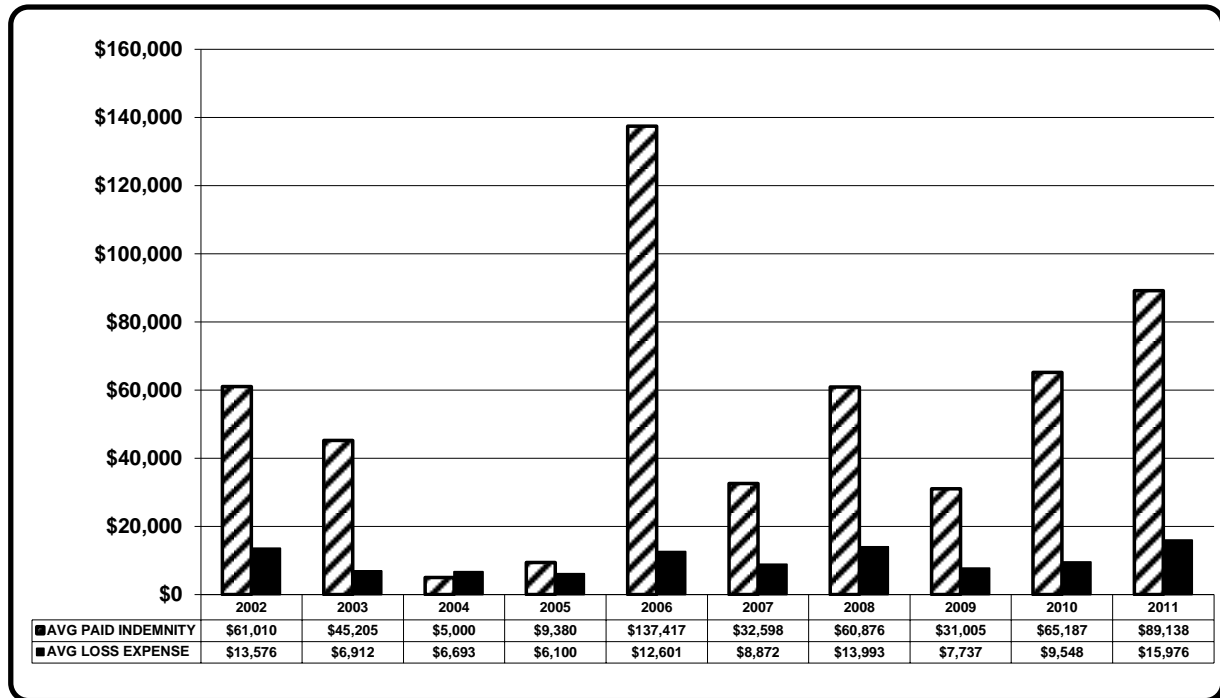


### CLAIM COUNT

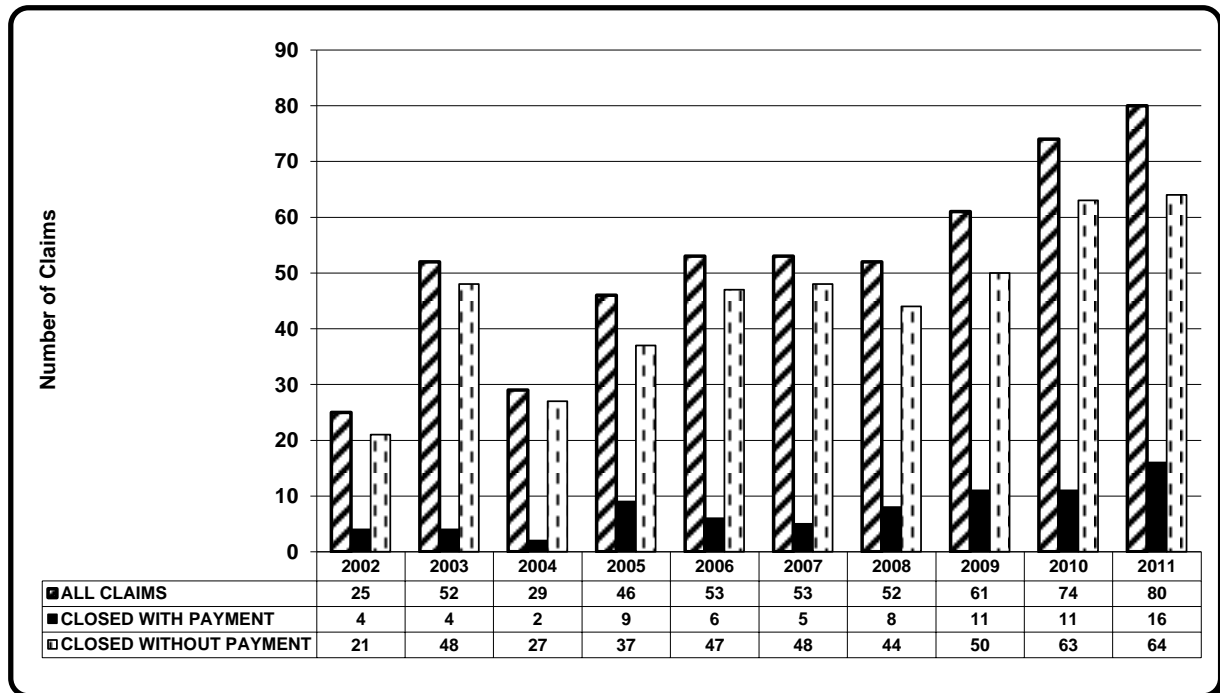


## NON-CLIENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

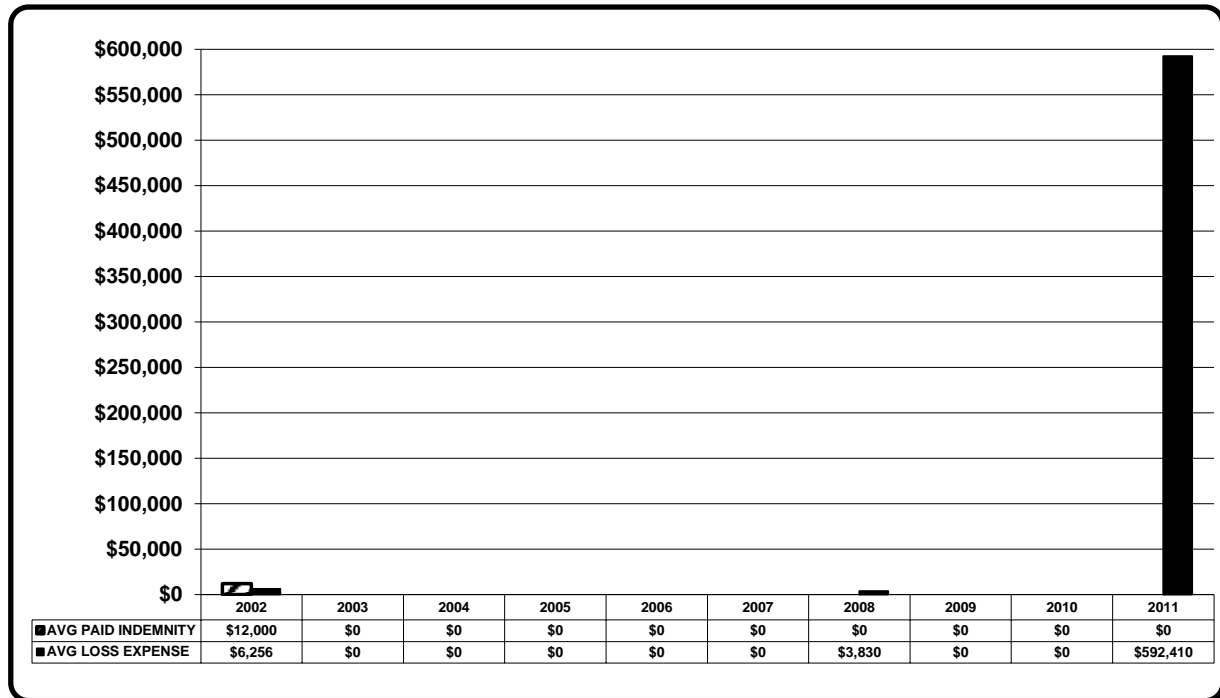


## CLAIM COUNT

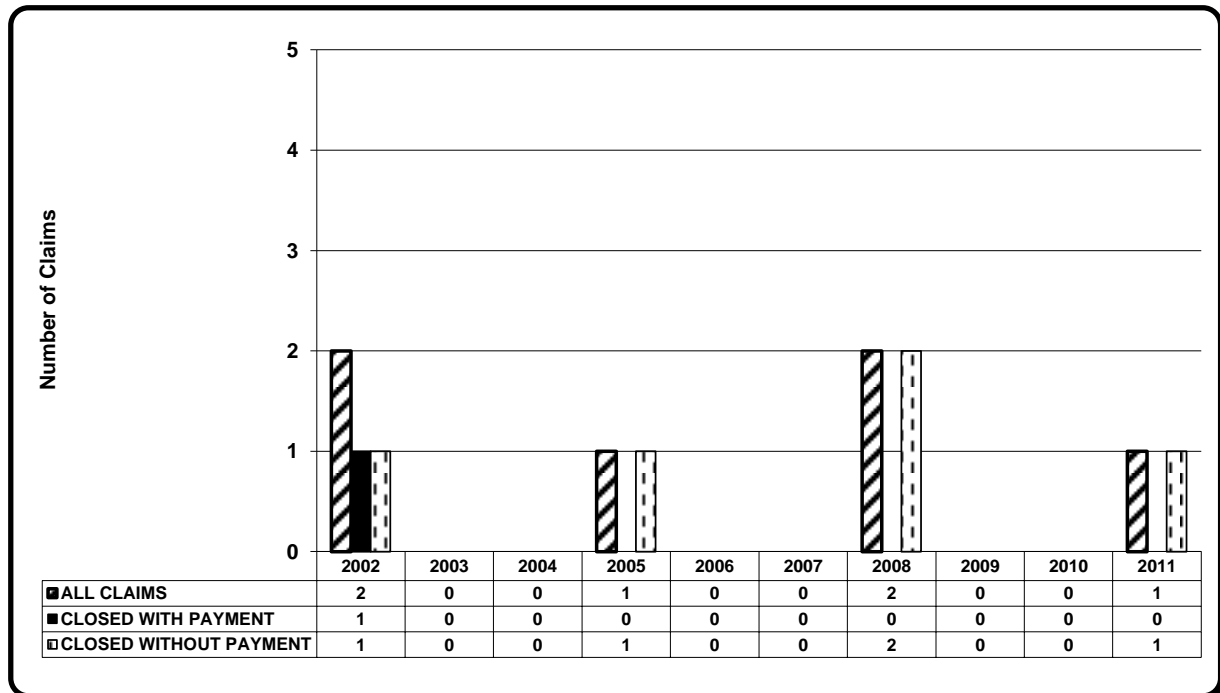


## FREE LEGAL SERVICE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT







# **PREMIUM AND LOSS DATA**



**PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE  
WITH MARKET SHARE**

**2011 EXPERIENCE**

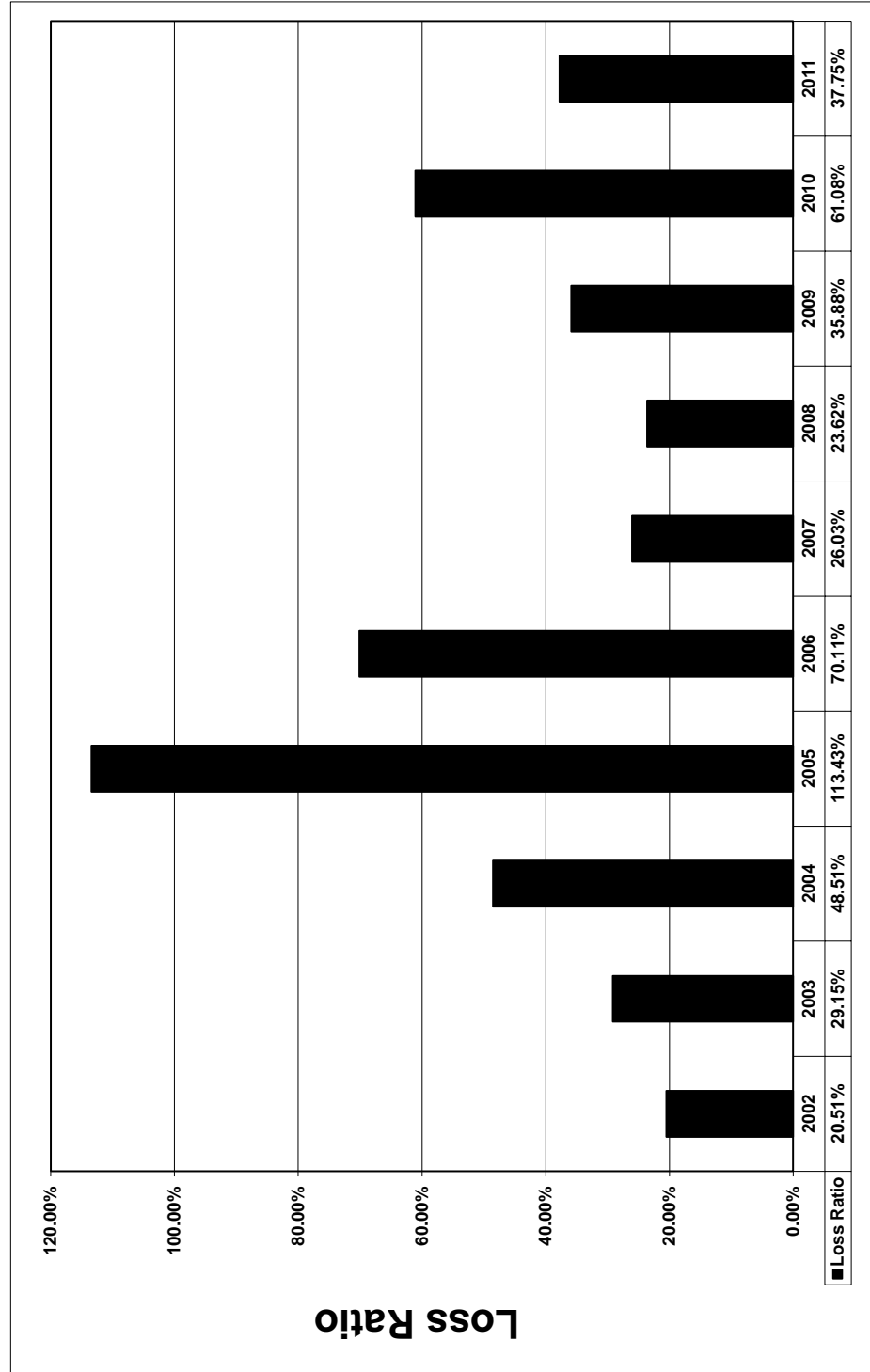
NAIC Company Code	Company Name	Market Share	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
29513	BAR PLAN MUTUAL INSURANCE COMPANY THE	68.09%	\$9,716,036	\$9,955,802	\$2,864,385	28.77%
20443	CONTINENTAL CASUALTY COMPANY	16.78%	\$2,394,960	\$2,183,472	\$1,771,113	81.11%
25585	PROFESSIONALS DIRECT INSURANCE COMPANY	11.95%	\$1,705,101	\$1,957,296	\$921,315	47.07%
29459	TWIN CITY FIRE INSURANCE COMPANY	1.49%	\$213,031	\$202,765	\$80,021	39.46%
31194	TRAVELERS CASUALTY & SURETY CO OF AMERICA	0.59%	\$83,501	\$101,128	\$418	0.41%
39845	WESTPORT INSURANCE CORPORATION	0.54%	\$76,792	\$76,418	\$11,678	15.28%
12831	STATE NATIONAL INSURANCE COMPANY INC	0.28%	\$39,968	\$66,700	-\$13,325	-19.98%
24147	OLD REPUBLIC INSURANCE COMPANY	0.17%	\$23,650	\$26,196	\$15,692	59.90%
22241	MEDMARC CASUALTY INSURANCE COMPANY	0.07%	\$9,679	\$4,650	\$18,937	407.25%
22322	GREENWICH INSURANCE COMPANY	0.05%	\$6,781	\$6,602	-\$50,685	-767.72%
15865	NCMIC INSURANCE COMPANY	0.00%	\$0	\$0	-\$432	N/A
16691	GREAT AMERICAN INSURANCE COMPANY	0.00%	\$0	\$0	-\$211,217	N/A
22136	GREAT AMERICAN INSURANCE CO OF NEW YORK	0.00%	\$0	\$0	\$25,851	N/A
24767	ST PAUL FIRE & MARINE INSURANCE COMPANY	0.00%	\$0	\$615	\$22,000	3577.24%
24775	ST PAUL GUARDIAN INSURANCE COMPANY	0.00%	\$0	\$0	\$0	N/A
26344	GREAT AMERICAN ASSURANCE COMPANY	0.00%	\$0	\$0	\$55	N/A
37273	AXIS INSURANCE COMPANY	0.00%	\$0	\$26,440	\$58,326	220.60%
	TOTAL	100.00%	\$14,269,499	\$14,608,084	\$5,514,132	37.75%

**PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE**

**TEN YEAR SUMMARY**

<b>YEAR</b>	<b>Written Premium</b>	<b>Earned Premium</b>	<b>Incurred Losses</b>	<b>Loss Ratio</b>
2002	\$12,818,643	\$11,830,869	\$2,426,999	20.51%
2003	\$13,057,678	\$11,671,741	\$3,402,619	29.15%
2004	\$14,539,856	\$13,343,100	\$6,472,267	48.51%
2005	\$14,794,606	\$14,145,032	\$16,044,522	113.43%
2006	\$17,435,456	\$16,719,059	\$11,720,958	70.11%
2007	\$17,727,731	\$17,152,684	\$4,464,212	26.03%
2008	\$16,324,591	\$16,766,853	\$3,959,872	23.62%
2009	\$15,787,723	\$15,994,807	\$5,738,199	35.88%
2010	\$14,955,313	\$15,124,731	\$9,238,427	61.08%
2011	\$14,269,499	\$14,608,084	\$5,514,132	37.75%
<b>10-YEAR TOTAL</b>	<b>\$151,711,096</b>	<b>\$147,356,960</b>	<b>\$68,982,207</b>	<b>46.81%</b>

PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE  
TEN YEAR LOSS RATIO SUMMARY





## **Insurance Consumer Hotline**

Contact DIFP's Insurance Consumer Hotline  
if you have questions about your insurance policy  
or to file a complaint against an  
insurance company or agent:

**difp.mo.gov**

**800-726-7390**



# **DIFP**

Department of Insurance,  
Financial Institutions &  
Professional Registration

Harry S Truman Building, Room 530  
301 W. High St.  
PO Box 690  
Jefferson City, MO 65102

**JULY 2012**